Executive Order 12612, Federalism

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, *Federalism*, has determined that this rule will not have substantial direct effects on States or their political subdivisions, or the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government. No programmatic or policy changes will result from this rule that would affect the relationship between the Federal Government and State and local governments.

List of Subjects in 24 CFR Part 903

Administrative practice and procedure, Public housing, Reporting and recordkeeping requirements.

For the reasons discussed in the preamble, HUD amends 24 CFR part 903 as follows:

PART 903—PUBLIC HOUSING AGENCY PLANS

1. The authority citation for part 903 continues to read as follows:

Authority: 42 U.S.C. 1437c; 42 U.S.C. 3535(d).

2. Revise § 903.3 to read as follows:

§ 903.3 When must a PHA submit the plans to HUD?

(a) *5-Year Plan.* (1) The first PHA fiscal year that is covered by the requirements of this part is the PHA fiscal year that begins January 1, 2000. The first 5-Year Plan submitted by a PHA must be submitted for the 5-year period beginning January 1, 2000. The first 5-Year Plans are due on December 1, 1999. For PHAs whose fiscal years begin after January 1, 2000, their 5-Year Plans are due no later than 75 days before the commencement of their fiscal year. For all PHAs, after submission of their first 5-Year Plan, all subsequent 5-Year Plans must be submitted once every 5 PHA fiscal years, no later than 75 days before the commencement of the PHA's fiscal year.

(2) PHAs may choose to update their 5-Year Plans every year as good management practice. PHAs must explain any substantial deviation from their 5-Year Plans in their Annual Plans.

(b) *The Annual Plan.* The first fiscal year that is covered by the requirements of this part is the PHA fiscal year that begins January 1, 2000. The first Annual Plans are due December 1, 1999. For PHAs whose fiscal years begin after January 1, 2000, their first Annual Plan are due 75 days in advance of their fiscal year commencement date. For all PHAs, after submission of their first Annual Plan, all subsequent Annual Plans will be due 75 days in advance of the commencement of a PHA's fiscal year.

3. Add § 903.23(c) to read as follows:

§ 903.23 What is the process by which HUD reviews, approves, or disapproves an Annual Plan?

* * * * *

(c) *Designation of due date as submission date for initial plan submissions.* For purposes of the 75-day period described in paragraph (b) of this section, the first 5-year and Annual Plans submitted by a PHA will be considered to have been submitted on their due date (December 1, 1999 or 75 days before the start of the PHA fiscal year, as appropriate—see § 903.3).

* * * * *

Dated: September 14, 1999.

Harold Lucas,

Assistant Secretary for Public and Indian Housing.

[FR Doc. 99–24600 Filed 9–20–99; 8:45 am]

BILLING CODE 4210–33–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD 05–99–076]

Special Local Regulations for Marine Events; Chincoteague Power Boat Regatta, Assateague Channel, Chincoteague, Virginia

AGENCY: Coast Guard, DOT.

ACTION: Notice of implementation.

SUMMARY: This notice implements the special local regulations for the Chincoteague Power Boat Regatta to be held on the waters of Assateague Channel near Chincoteague, Virginia, on September 25, 1999 and September 26, 1999. These special local regulations are necessary to control vessel traffic due to the confined nature of the waterway and expected vessel congestion during the event. The effect will be to restrict general navigation in the regulated area for the safety of event participants, spectators and vessels transiting the event area.

DATES: This rule is effective from 10:30 a.m. EDT (Eastern Daylight Time) to 6:30 p.m. EDT on September 25, 1999, and from 11:30 a.m. EDT to 6:30 p.m. EDT on September 26, 1999.

FOR FURTHER INFORMATION CONTACT: Chief Petty Officer G. Nestle, Marine Events Coordinator, Commander, Coast Guard Group Eastern Shore, Chincoteague, Virginia, (757) 336–2890.

SUPPLEMENTARY INFORMATION: The Chincoteague Chamber of Commerce will sponsor the Chincoteague Power Boat Regatta on September 25, 1999 and September 26, 1999, on the waters of Assateague Channel, near Chincoteague, Virginia. (This event is normally held on the third Saturday and Sunday in June.) The event will involve 45 hydroplanes and runabouts racing along a 1.25 mile course within the regulated area. In order to ensure the safety of race participants, spectators and transiting vessels, 33 CFR 100.519 will be in effect for the duration of the event. Under provisions of 33 CFR 100.519, a vessel may not enter the regulated area unless it receives permission from the Coast Guard Patrol Commander. Spectator vessels may anchor outside the regulated area but may not block a navigable channel. Because these restrictions will be in effect for a limited period, they should not result in a significant disruption of maritime traffic.

Dated: September 2, 1999.

Roger T. Rufe, Jr.,

Vice Admiral, U.S. Coast Guard, Commander Fifth Coast Guard District.

[FR Doc. 99–24578 Filed 9–20–99; 8:45 am]

BILLING CODE 4910–15–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[VA 022–5040; FRL–6436–8]

Approval and Promulgation of Air Quality Implementation Plans; Virginia; New Source Review in Nonattainment Areas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is granting limited approval of a State Implementation Plan (SIP) revision submitted by the Commonwealth of Virginia to revise its new source review (NSR) regulations for nonattainment areas to bring them into conformance with the Clean Air Act (CAA) Amendments adopted in 1990, and to make other changes desired by the Commonwealth. Virginia's NSR regulations for nonattainment areas require persons to meet certain requirements before constructing a new major source or major modification in a nonattainment area. The intended effect of this action is to grant limited approval of Virginia's NSR regulation as a SIP revision under the CAA.

EFFECTIVE DATE: This final rule is effective on Ocotber 21, 1999.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460; and Virginia Department of Environmental Quality, 629 East Main Street, Richmond, Virginia.

FOR FURTHER INFORMATION CONTACT: Donna Weiss, Environmental Engineer, (215) 814–2198 or by e-mail at weiss.donna@epa.gov.

SUPPLEMENTARY INFORMATION:

A. Background

On March 23, 1998 (63 FR 13811), EPA published a notice of proposed rulemaking (NPR) for the Commonwealth of Virginia. The NPR proposed limited approval of revisions to Virginia's NSR regulations (Section 120–08–03). No comments were received on the NPR.

B. Summary of the SIP Revision

Virginia submitted the formal SIP revision on November 9, 1992. The significant changes to Section 120–08–03 are summarized below:

Section 120–08–03 A—Applicability (amended)—Virginia has modified this subsection by including a provision to deter a company from constructing or modifying a facility in increments to avoid permit requirements.

Section 120–08–03 B—Definitions (amended)—Virginia has modified many of the definitions found in this subsection. Key changes were made to the following terms: ''Allowable Emissions'', ''Building, structure facility or installation'', ''Federally enforceable'', ''Major Modification'', ''Major Stationary Source'', ''Net emissions increase'', ''Nonattainment pollutant'', ''Potential to Emit'', ''Reconstruction'', and ''Significant''.

Section 120–08–03 C—General (amended)—Virginia modified the general subsection by adding a provision stating that it may combine in one permit the requirements for emissions units subject to more than one of Virginia's regulatory requirements applicable to permitting, and that Virginia may also require a combined application for such emissions units. The permitting requirements for which such combined permits and applications may be required include those of Virginia's NSR regulation for sources locating in nonattainment areas and those of two other Virginia regulations, entitled, ''Permits—New and Modified Sources,'' and ''Permits—Major Stationary Sources and Major Modifications Locating in Prevention of Significant Deterioration Areas.''

Section 120–08–03 D—Applications (amended)—Virginia modified the applications subsection by revising its specification of the scope of permit applications. Virginia also added provisions defining who must sign permit applications and requiring the signer to certify that ''the information submitted is, to the best of my knowledge and belief, true, accurate, and complete.''

Section 120–08–03 F—Standards/ Conditions for Granting Permits (amended)—Virginia made several changes in the standards and conditions subsection, which establishes the requirements which must be met before a permit can be issued.

Section 120–08–03 G—Action on Permit application (amended)—Virginia amended this subsection to specify that Virginia must notify applicants in writing of deficiencies in their permit applications. Virginia also deleted certain public participation provisions from this section which it now includes in a separate section of the regulation; and revised its description of permit processing steps by including in the description a reference to public participation requirements found elsewhere in the regulation.

Section 120–08–03 H—Public Participation (added)—Virginia added a new subsection detailing public participation requirements. This subsection requires the applicant to provide the public with notice of its application for a permit and then, within 30 to 60 days, to provide a public briefing. In addition, the subsection provides that Virginia must provide a public comment period of at least 30 days, and hold a public hearing, before it makes a decision on a permit application.

Section 120–08–03 I—Compliance Determination verification by Performance Testing (amended, formerly designated as Section 120–08–03 H, this section replaces the original Section 120–08–03 I, which was deleted)—Virginia modified this subsection by specifying that source owners are responsible for conducting tests if any such tests are required.

Section 120–08–03 J—Application Review and Analysis (formerly designated as Section 120–08–03 K, this section replaces the original Section 120–08–03 J, which was deleted)—Virginia made no changes to this subsection.

Section 120–08–03 K—Circumvention (formerly designated as Section 120–08–03 L)—Virginia made no changes to this subsection.

Section 120–08–03 L—Interstate Pollution Abatement (formerly designated as Section 120–08–03 M)—Virginia made no changes to this subsection.

Section 120–08–03 M—Offsets (amended, formerly designated as Section 120–08–03 N)—Virginia allows the crediting of emission reductions resulting from shutting down an existing source or curtailing production or operating hours below baseline levels if the shutdown or curtailment is in effect, if it occurred on or after January 1, 1991, and if it is permanent, quantifiable, and federally and state enforceable. Virginia requires that the increased emissions of the air pollutant(s) from the new or modified source must be offset by an equal or greater reduction in the actual emissions of such air pollutant(s) from the same or other sources. Virginia allows reductions to be credited only if they are not otherwise required by its regulations. Virginia does allow incidental emission reductions to be credited, provided they are not required by regulation and meet certain other requirements. In this section Virginia also includes a special provision allowing increases in emissions from rocket engine and motor firing to be offset by alternative or innovative means.

Section 120–08–03 N—De minimis increases and stationary source modification alternatives for ozone nonattainment areas classified as serious or severe (added)—Virginia specifies in this new subsection that VOC emissions increases resulting from modifications at sources in serious or severe ozone nonattainment areas cannot be considered *de minimis* unless the increase in net emissions does not exceed 25 TPY when aggregated with all other net increases in emissions from the source over any period of 5 consecutive calendar years which includes the calendar year in which such increase occurred.

Section 120–08–03 Q—Reactivation and Permanent shutdown (added) Virginia specifies in this new subsection that a source which is reopened after having been determined to be shutdown must obtain a permit. Virginia also sets forth criteria by which sources are formally determined to be shutdown.

Section 120–08–03 R—Transfer of Permits (added)—Virginia establishes in

this new subsection provisions pertaining to transfer of permits.

Section 120–08–03 S—Permit Invalidation, Revocation, and Enforcement (added)—Virginia sets forth in this new subsection the conditions under which owners of sources subject to permitting requirements may be subject to enforcement action and when permits may be invalidated or revoked.

Section 120–08–03 T—Existence of Permit No Defense (added)—Virginia specifies in this new subsection that the existence of a permit under this section shall not constitute a defense to a violation of the Virginia Air Pollution Control Law or these regulations and shall not relieve any owner of the responsibility to comply with any applicable regulations, laws, ordinances and orders of the governmental entities having jurisdiction.

C. EPA's Evaluation of the SIP Revision

EPA has determined that the amendments to Virginia's NSR regulations are consistent with the CAA and currently promulgated federal NSR regulations with one exception. Virginia's NSR regulation allows persons who intend to build or modify a major source in a nonattainment area to take credit for emission reductions obtained from shutdowns or curtailments of production or operating hours which took place prior to the source's application for a new source review permit (prior to shutdown or curtailment credits) even if EPA has not yet approved an attainment plan for the nonattainment area. The shutdown may not predate the design year of the required attainment plan. Although EPA's existing regulations do not allow for this, EPA proposed revisions to its NSR and PSD regulations on July 23, 1996, which proposes an option which is consistent with Virginia's revised regulation. Based on this fact, as well as the fact that the revisions strengthen Virginia's SIP, EPA is granting limited approval of these regulatory revisions. EPA has provided a more detailed analysis on this issue in the March 23, 1998 NPR referenced above.

In 1995, Virginia adopted legislation that provides, subject to certain conditions, for an environmental assessment (audit) ''privilege'' for voluntary compliance evaluations performed by a regulated entity. The legislation further addresses the relative burden of proof for parties either asserting the privilege or seeking disclosure of documents for which the privilege is claimed. Virginia's legislation also provides, subject to certain conditions, for a penalty waiver for violations of environmental laws when a regulated entity discovers such violations pursuant to a voluntary compliance evaluation and voluntarily discloses such violations to the Commonwealth and takes prompt and appropriate measures to remedy the violations. Virginia's Voluntary Environmental Assessment Privilege Law, Va. Code Sec. 10.1–1198, provides a privilege that protects from disclosure documents and information about the content of those documents that are the product of a voluntary environmental assessment. The Privilege Law does not extend to documents or information (1) that are generated or developed before the commencement of a voluntary environmental assessment; (2) that are prepared independently of the assessment process; (3) that demonstrate a clear, imminent and substantial danger to the public health or environment; or (4) that are required by law.

On January 12, 1997, the Commonwealth of Virginia Office of the Attorney General provided a legal opinion that states that the Privilege law, Va. Code Sec. 10.1–1198, precludes granting a privilege to documents and information ''required by law,'' including documents and information ''required by federal law to maintain program delegation, authorization or approval,'' since Virginia must ''enforce federally authorized environmental programs in a manner that is no less stringent than their federal counterparts * * *.'' The opinion concludes that ''[r]egarding § 10.1–1198, therefore, documents or other information needed for civil or criminal enforcement under one of these programs could not be privileged because such documents and information are essential to pursuing enforcement in a manner required by federal law to maintain program delegation, authorization or approval.'' Virginia's Immunity law, Va. Code Sec. 10.1–1199, provides that ''[t]o the extent consistent with requirements imposed by Federal law,'' any person making a voluntary disclosure of information to a state agency regarding a violation of an environmental statute, regulation, permit, or administrative order is granted immunity from administrative or civil penalty. The Attorney General's January 12, 1997 opinion states that the quoted language renders this statute inapplicable to enforcement of any federally authorized programs, since ''no immunity could be afforded from administrative, civil, or criminal penalties because granting such immunity would not be consistent with federal law, which is one of the criteria for immunity.''

Therefore, EPA has determined that Virginia's Privilege and Immunity statutes will not preclude the Commonwealth from enforcing its NSR program consistent with the federal requirements. In any event, because EPA has also determined that a state audit privilege and immunity law can affect only state enforcement and cannot have any impact on federal enforcement authorities, EPA may at any time invoke its authority under the Clean Air Act, including, for example, sections 113, 167, 205, 211 or 213, to enforce the requirements or prohibitions of the state plan, independently of any state enforcement effort. In addition, citizen enforcement under section 304 of the Clean Air Act is likewise unaffected by this, or any, state audit privilege or immunity law.

Other specific requirements of Virginia's revisions and the rationale for EPA's proposed action are explained in the NPR and will not be restated here. No public comments were received on the NPR.

II. Final Action

EPA is granting limited approval of amendments to 120–08–03. ''Permits—major stationary sources and major modifications locating in nonattainment areas' submitted by the Commonwealth of Virginia on November 9, 1992.

III. Administrative Requirements

A. Executive Orders 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from review under E.O. 12866, entitled ''Regulatory Planning and Review.''

B. Executive Order 12875

Under E.O. 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a state, local, or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If EPA complies by consulting, E.O. requires EPA to provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected state, local, and tribal governments, the nature of their concerns, copies of written communications from the governments, and a statement supporting the need to issue the regulation. In addition, E.O. 12875 requires EPA to develop an effective process permitting elected officials and other representatives of

state, local, and tribal governments ''to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.'' Today's rule does not create a mandate on state, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of E.O. 12875 do not apply to this rule.

C. Executive Order 13045

E.O. 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), applies to any rule that the EPA determines (1) is ''economically significant,'' as defined under E.O. 12866, and (2) the environmental health or safety risk addressed by the rule has a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency. This final rule is not subject to E.O. 13045 because it is not an economically significant regulatory action as defined by E.O. 12866, and it does not address an environmental health or safety risk that would have a disproportionate effect on children.

D. Executive Order 13084

Under E.O. 13084, EPA may not issue a regulation that is not required by statute, that significantly affects or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.'' Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies 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 small governmental jurisdictions. This final rule will not have a significant impact on a substantial number of small entities because 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 Clean Air Act, 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).

F. 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 annual costs to State, local, or tribal governments in the aggregate; or to 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 annual 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.

G. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit 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 United States prior to publication of the rule in the **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

H. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action granting limited approval of Virginia's NSR regulations must be filed in the United States Court of Appeals for the appropriate circuit by November 22, 1999. 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, Hydrocarbons, Incorporation by reference, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: September 3, 1999.

W. Michael McCabe,

Regional Administrator, Region III.

40 CFR part 52 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 *et seq.*

Subpart VV—Virginia

2. Section 52.2420 is amended by adding paragraph (c)(129) to read as follows:

§ 52.2420 Identification of plan.

* * * * *

(c) * * *

(129) Revisions to the Virginia Regulations pertaining to permit requirements for new and modified stationary sources locating in nonattainment areas mandated under Title I, Sections 171–173 and 182 of the Clean Air Act submitted on November 9, 1992, by the Commonwealth of Virginia:

(i) Incorporation by reference.

(A) Letter of November 9, 1992, from the Commonwealth of Virginia, Department of Air Pollution Control transmitting revisions to the Virginia Regulations pertaining to permit requirements for new and modified stationary sources locating in nonattainment areas.

(B) Commonwealth of Virginia State Air Pollution Control Board Regulations for the Control and Abatement of Air Pollution, *Permits for Stationary Sources,* Section 120–08–03. ''Permits—Major Stationary Sources and Major Modifications Locating in Nonattainment Areas''. (Effective January 1, 1993).

(ii) Additional materials—The remainder of the November 2, 1992 submittal pertaining to Regulation 120–08–03.

[FR Doc. 99–24454 Filed 9–20–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR PART 52

[Docket #OR55–7270; FRL–6438–5]

Approval and Promulgation of Implementation Plans; Oregon

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: Environmental Protection Agency (EPA) approves revisions to the Oregon State Implementation Plan. The Lakeview, Oregon PM10 Control Plan is intended to bring about the attainment of National Ambient Air Quality Standards for particulate matter with an aerodynamic diameter less than or equal to a nominal ten micrometers (PM10). The implementation plan was submitted to satisfy Federal requirements for moderate PM10 nonattainment areas.

DATES: This direct final rule is effective on November 22, 1999, without further notice, unless EPA receives adverse comment by October 21, 1999. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Written comments should be addressed to: Montel Livingston, SIP Manager, EPA, Region 10, Office of Air Quality (OAQ–107), 1200 Sixth Avenue, Seattle, Washington 98101.

Documents which are incorporated by reference are available for public inspection at the Air and Radiation Docket and Information Center, Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460. Copies of material submitted to EPA may be examined during normal business hours at the following locations: EPA, Region 10, Office of Air Quality (OAQ–107), 1200 Sixth Avenue, Seattle Washington 98101, and State of Oregon Department of Environmental Quality, 811 SW Sixth Avenue, Portland, Oregon 97204–1390.

FOR FURTHER INFORMATION CONTACT: Tracy Oliver, EPA, Region 10, Office of Air Quality (OAQ–107), 1200 Sixth Ave, Seattle, Washington, 98101, (206) 553–1388.

SUPPLEMENTARY INFORMATION:

I. Background

A. Applicable PM10 Standard and Initial Area Designations

The Clean Air Act [1] (Act) requires EPA to reevaluate the health-based National Ambient Air Quality Standards (NAAQS) every five years to consider changes based on new scientific information. On July 1, 1987, EPA revised the particulate matter NAAQS to reflect new evidence that smaller particles pose an increased threat to human health and the environment (52 FR 24634). Upon revision, PM10 was selected as the new indicator for particulates.

EPA replaced the old total suspended particulate (TSP) standard with new primary and secondary standards for PM10. The new 24-hour primary and secondary standard for PM10 was set at 150 micrograms per cubic meter ($\mu g/m^3$) with no more than one allowable exceedance per year within a three-year time frame. The new annual PM10 standard was set at 50 $\mu g/m^3$ expected annual arithmetic mean with no allowable exceedances.

Concurrent with the new standards, EPA promulgated revisions to 40 CFR parts 51 and 52 and implementation guidance for PM10 NAAQS (52 FR 24672). These revisions to 40 CFR Parts 51 and 52 established requirements for the preparation, adoption, and submittal of State Implementation Plans (SIPs) and set forth requirements for the Administrator's approval and promulgation of SIP revisions.

When Congress revised the Act on November 15, 1990, it codified the EPA's 1987 PM10 NAAQS revisions and designated PM10 areas under Section 107. This revision also changed SIP requirements for particulate matter (PM) nonattainment areas.[2]

The General Preamble for the implementation of Title I of the amended Act states that on the date of enactment, PM10 areas meeting the qualifications of Section 107(d)(4)(B) of the Act became nonattainment by operation of law. These areas included: (1) Areas with the greatest probability of violating the old PM standard (Class I areas in 52 FR 29383 and 55 FR 45799); and (2) other areas violating the PM10 NAAQS prior to January 1, 1989. All other PM areas were designated unclassifiable for PM10 (57 FR 13537).[3]

The amended Act, in accordance with Section 107(d)(3), authorizes EPA to promulgate the designation of new areas as nonattainment for PM10 based on air quality data, planning and control considerations, and/or any other air quality-related consideration that the Administrator deems appropriate.

On April 22, 1991, EPA announced in 56 FR 16274 that it had initiated the redesignation process for 16 areas. Other areas were subsequently redesignated on a case-by-case basis.

B. Lakeview, Oregon Designation History

By operation of law upon enactment of the 1990 Clean Air Act Amendments, Lakeview, Oregon was designated ''unclassifiable'' due to a lack of air quality monitoring data (see CAA section 107(d)(4)(B)(iii)).

The State of Oregon subsequently conducted monitoring in the Lakeview area to verify PM10 concentrations and

[1] The 1990 Amendments to the Clean Air Act made significant changes to the Act. See Pub. L. 101–549, 104 Stat. 2399. References herein are to the Clean Air Act, as amended. The Clean Air Act is codified, as amended, in the U.S. Code at 42 U.S.C., Sections 7401, *et seq.*

[2] Title 1, Subparts 1 and 4 contain revisions applicable to all nonattainment areas and those specific to PM10 nonattainment areas. At times, these provisions overlap or conflict. Because EPA is describing its interpretations here in broad terms, the reader should refer to the General Preamble (57 FR 13498) to better clarify the requirements that authorize this action.

[3] Procedures for area classification and attainment date determinations can be found in CAA section 188.