

(IAC) 6-1-12 as amended, effective January 13, 1990.

[FR Doc. 93-19495 Filed 8-12-93; 8:45 am]

BILLING CODE 6560-50-P

#### 40 CFR Part 52

[AK2-1-5480; AD-FRL-4666-3]

### Approval and Promulgation of State Implementation Plans; Alaska

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

**ACTION:** Final rule.

**SUMMARY:** EPA proposes approval of the state implementation plan (SIP) submitted by the State of Alaska Department of Environmental Conservation (ADEC) for the purpose of bringing about the attainment of the national ambient air quality standards (NAAQS) for particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM<sub>10</sub>). The implementation plan was submitted by ADEC on October 15, 1991, to satisfy certain federal Clean Air Act requirements for an approvable moderate PM<sub>10</sub> nonattainment area SIP for Eagle River, Alaska. This action to approve this plan has the effect of making requirements adopted by the ADEC federally enforceable by EPA.

**EFFECTIVE DATE:** October 12, 1993.

**ADDRESSES:** Copies of the materials submitted to EPA may be examined during normal business hours at: Public Information Reference Unit, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460; Environmental Protection Agency, Air Programs Branch, Docket # AK2-1-5480, 1200 Sixth Avenue, AT-082, Seattle, Washington 98101; Alaska Department of Environmental Conservation, 410 Willoughby, Suite 105, Juneau, Alaska 99801-1795.

**FOR FURTHER INFORMATION CONTACT:** Christi Lee, Environmental Protection Agency, 1200 Sixth Avenue, AT-082, Seattle, Washington 98101, Telephone: 206/553-6510.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

The Eagle River, Alaska area was designated nonattainment for PM<sub>10</sub> and classified as moderate under sections 107(d)(4)(B) and 188(a) of the Clean Air Act, upon enactment of the Clean Air Act Amendments of 1990.<sup>1</sup> See 56 FR

56694 (November 6, 1991). The air quality planning requirements for moderate PM<sub>10</sub> nonattainment areas are set out in subparts 1 and 4 of part D, title I of the Act.<sup>2</sup> EPA has issued a "General Preamble" describing EPA's preliminary views on how EPA intends to review SIP's and SIP revisions submitted under Title I of the Act, including those state submittals containing moderate PM<sub>10</sub> nonattainment area SIP requirements. See generally 57 FR 13498 (April 16, 1992); see also 57 FR 18070 (April 28, 1992).

On March 12, 1993, EPA announced its proposed approval of the moderate nonattainment area PM<sub>10</sub> SIP for Eagle River, Alaska (58 FR 13572-13575). In that rulemaking action, EPA described its interpretations of Title 1 and its rationale for proposing to approve the Eagle River PM<sub>10</sub> SIP taking into consideration the specific factual issues presented.

Those states containing initial moderate PM<sub>10</sub> nonattainment areas (those areas designated nonattainment under section 107(d)(4)(B)) were required to submit, among other things, the following provisions by November 15, 1991:

1. Provisions to assure that reasonably available control measures (RACM) (including such reductions in emissions from existing sources in the area as may be obtained through the adoption, at a minimum, of reasonably available control technology (RACT)) shall be implemented no later than December 10, 1993;

2. Either a demonstration (including air quality modeling) that the plan will provide for attainment as expeditiously as practicable but no later than December 31, 1994, or a demonstration that attainment by that date is impracticable;

3. Quantitative milestones which are to be achieved every three years and which demonstrate reasonable further progress (RFP) toward attainment by December 31, 1994; and

4. Provisions to assure that the control requirements applicable to major stationary sources of PM<sub>10</sub> also apply to major stationary sources of PM<sub>10</sub> precursors except where the Administrator determines that such

Clean Air Act is codified, as amended, in the U.S. Code at 42 U.S.C. sections 7401, *et seq.*

<sup>2</sup> Subpart 1 contains provisions applicable to nonattainment areas generally and subpart 4 contains provisions specifically applicable to PM<sub>10</sub> nonattainment areas. At times, subpart 1 and subpart 4 overlap or conflict. EPA has attempted to clarify the relationship among these provisions in the "General Preamble" and, as appropriate, in today's notice and supporting information.

sources do not contribute significantly to PM<sub>10</sub> levels which exceed the NAAQS in the area. See sections 172(c), 188, and 189 of the Act.

Additional provisions are due at a later date. States with initial moderate PM<sub>10</sub> nonattainment areas were required to submit a permit program for the construction and operation of new and modified major stationary sources of PM<sub>10</sub> by June 30, 1992 (see section 189(a)). Such states also must submit contingency measures by November 15, 1993, which become effective without further action by the state or EPA, upon a determination by EPA that the area has failed to achieve RFP or to attain the PM<sub>10</sub> NAAQS by the applicable statutory deadline (see section 172(c)(9) and 57 FR 13543-13544).

##### II. Response to Comments

EPA received no comments on its March 12, 1993, (58 FR 13572-13575) **Federal Register** proposal to approve the Eagle River moderate nonattainment area PM<sub>10</sub> SIP as a revision.

##### III. Today's Action

Section 110(k) of the Act sets out provisions governing EPA's review and processing of SIP submittals (see 57 FR 13565-13566). In today's action, EPA is approving the plan submitted to EPA on October 15, 1991. EPA has determined that the submittal meets all of the applicable requirements of the Act. Among other things, the Alaska Department of Environmental Conservation has demonstrated the Eagle River moderate PM<sub>10</sub> nonattainment area will attain the PM<sub>10</sub> NAAQS by December 31, 1994.

##### IV. Administrative Review

This action has been classified as a Table 2 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214-2225). On January 6, 1989, the Office of Management and Budget waived Table 2 and 3 SIP revisions (54 FR 2222) from the requirements of section 3 of Executive Order 12291 for a period of two years.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic and environmental factors and in relation to relevant statutory and regulatory requirements.

Under 5 U.S.C. 605(b), I certify that this revision will not have a significant

<sup>1</sup> 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 Act"). The

economic impact on a substantial number of small entities (See 46 FR 8709).

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 section 110 and subchapter I, part D of the CAA do not create any new requirements, but simply approve requirements that the state is already imposing. Therefore, because the federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. U.S.E.P.A.*, 427 U.S. 246, 256-66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2).

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 12, 1993. 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)) (See 42 U.S.C. 7607(b)(2))

#### List of Subjects in 40 CFR Part 52

Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Note: Incorporation by reference of the Implementation Plan for the State of Alaska was approved by the Director of the Office of the Federal Register on July 1, 1972.

Dated: June 3, 1993.

Gerald A. Emison,  
Acting Regional Administrator.

Title 40, chapter I, part 52 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 C—Alaska

2. Section 52.70 is amended by adding paragraph (c)(17) to read as follows:

#### § 52.70 Identification of plan.

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(c) \* \* \*

(17) On October 17, 1991, the State of Alaska Department of Environmental Conservation submitted a PM<sub>10</sub> nonattainment area state implementation plan for Eagle River, Alaska.

(i) Incorporation by reference.

(A) October 15, 1991 letter from Alaska Department of Environmental Conservation to EPA Region 10 submitting the PM<sub>10</sub> nonattainment area state implementation plan for Eagle River, Alaska.

(B) The PM<sub>10</sub> nonattainment area state implementation plan for Eagle River, Alaska, as adopted by the Anchorage Assembly on February 6, 1990 and effective on September 24, 1991.

[FR Doc. 93-19496 Filed 8-12-93; 8:45 am]

BILLING CODE 6560-50-8