

significance levels. These regulations are also affected by 2D.0104. North Carolina committed to removing the automatic updating clause from 2D.0530, and 2D.0531 and 2D.0532 at the next public hearing and EPA proposed approval of the two revised regulations. North Carolina removed the clause from 2D.0530, 2D.0531 and 2D.0532 and submitted the revisions as SIP revisions on July 14, 1989.

Regulation 2H.0601, Purpose and Scope, is being amended to delete a paragraph that paraphrases North Carolina General Statute 143-215-108(a), as recommended by the State's Office of Legal Affairs. Also on the advice of the Office of Legal Affairs, the permit requirements for complex sources have been clarified. The final amendment to 2H.0601 requires the owner or operator seeking an exemption from permitting requirements to demonstrate that both the emission standards and air quality standards will not be contravened.

Regulation 2H.0603, Applicability, is being amended to require incinerators constructed before July 1, 1987 to use an allowable particulate emission rate of 0.08 grains per dry standard cubic foot (0.08 grf/dscf) instead of the applicable pounds per hour rate in order to have their permits adopted as part of the SIP. Region IV has been working with North Carolina on this revision for several years and concurs on this version.

Final Action

EPA has revised the submitted materials and found it to meet the requirements of 40 CFR part 51. Therefore, EPA is approving the North Carolina revisions.

For further information on EPA's analysis, the reader may consult a Technical Support Document which contains a detailed review of the materials submitted. This is available at the EPA address given above.

Under section 307(b)(1) of the Act, petition for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by March 19, 1990. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

This action has been classified as a Table 3 action by the Regional Administrator under the procedures published in the Federal Register 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 section should be construed as permitting or allowing or

establishing a precedent for any future request for revision to any 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.

List of Subjects in 40 CFR Part 52

Air Pollution control, Hydrocarbons, Incorporation by reference, Particulate matter, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401-7642.

Dated: November 29, 1989.

Lee A. DeHihns, III,
Acting Regional Administrator.

40 CFR part 52, subpart II, is amended as follows:

PART 52--[AMENDED]

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

Authority: 42 U.S.C. 7401-7642.

2. Section 52.1770 is amended by adding paragraph (c)(61) to read as follows:

§ 52.1770 Identification of plan.

* * * * *

(c) * * *

(61) Revisions to the SIP including PM₁₀ revisions submitted on May 2, 1988, and July 14, 1989 by the North Carolina Department of National Resources and Community Development.

(i) *Incorporation by reference.* (A) July 1, 1988 revisions to North Carolina Administration Code Regulation No.:

2D.0101—Definitions, (18) and (25)–(33)

2D.0302—Episode criteria, (2)(g), (3)(g), (4) (f) and (g)

2D.0403—Total suspended particulates

2D.0409—Particulate matter

2D.0501—Compliance with emission control standards, (c)(18)

2D.0913—Determination of volatile content of surface coatings

2D.0916—Determination of VOC emissions from bulk gasoline terminals

2D.0939—Determination of volatile organic compound emissions

2D.0940—Determination of leak tightness and vapor leaks

2D.0601—Purpose and scope

2D.0603—Applications, (f) (5) and (6)

(B) October 1, 1989 State-effective revisions to North Carolina Administration Code No.:

2D.0104—Adoption by Reference Updates

2D.0530—Prevention of Significant Deterioration, (h)

2D.0531—Sources in Non-Attainment Areas, (d)

2D.0532—Sources Contributing to an Ambient Violation, (d)

(ii) Additional material. (A) May 2, 1988 letter from North Carolina Department of Natural Resources and Community Development.

(B) July 14, 1989 letter from North Carolina Department of Natural Resources and Community Development [FR Doc. 90-839 Filed 1-12-90; 8:45 am]

BILLING CODE 6560-60-M

40 CFR Parts 52 and 81

[FRL-3704-3]

Approval and Promulgation of Implementation Plans; and Designation of Areas for Air Quality Planning Purposes; State of Kansas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Today's rulemaking takes final action to approve the Kansas particulate matter PM₁₀ State Implementation Plan (SIP) revision. This action is in response to a request submitted by Kansas on October 5, 1989. The PM₁₀ SIP submittal requested that EPA redesignate the Kansas group II area as unclassifiable with respect to the total suspended particulates (TSP). As a result of this action, all areas of the state of Kansas will be unclassifiable or attainment with respect to TSP.

EFFECTIVE DATE: This rulemaking will become effective on February 15, 1990.

ADDRESSES: Documents relevant to this action are available for public inspection at the Environmental Protection Agency, Region VII, 726 Minnesota Avenue, Kansas City, Kansas 66101, during normal business hours. Copies are also available during normal business hours at the Kansas Department of Health and Environment, Division of Air Quality and Radiation Control, Forbes Field, Topeka, Kansas 66620, and the Public Information Reference Unit, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Wayne A. Kaiser at (913) 236-2893; (FTS 757-2893).

SUPPLEMENTARY INFORMATION:

Background

On July 1, 1987, EPA promulgated a new national ambient air quality standard (NAAQS) for particulate matter. The new standard applies only to particles with a nominal aerodynamic diameter of 10 micrometers or less (PM₁₀). The new standard replaces TSP as an ambient air quality standard.

In order for states to regulate PM₁₀, they must make certain changes in their rules and regulations and in the SIPs. The changes to the rules and the SIP must ensure that the PM₁₀ NAAQS are attained and maintained; that new and modified sources which emit PM₁₀ are reviewed; that PM₁₀ is one of the pollutants to trigger alert, warning, and emergency actions; and that the states' monitoring networks be designed to include PM₁₀ monitors. These changes must be made regardless of the existing levels of PM₁₀ in any area of the state.

Where preliminary monitoring data indicate that it is likely PM₁₀ standards are being exceeded in an area, a control strategy is required to show how PM₁₀ emissions will be reduced to provide for attainment and maintenance of the PM₁₀ NAAQS. This is called a group I area.

If data show that the PM₁₀ standards could possibly be met in an area but there is some uncertainty, the states are required to commit to perform additional PM₁₀ monitoring in such an area and to prepare a control strategy if the data show with certainty that the standards are being exceeded. This is called a group II area. The commitments must be submitted in the form of a SIP revision and are termed a "committal" SIP.

Where available particulate matter data indicate the PM₁₀ air quality is better than the standards, EPA presumes that the existing SIP is adequate to demonstrate attainment and maintenance of the PM₁₀ standards. This is called a group III area.

Preconstruction review and emergency episode provisions are the only PM₁₀ rule revisions required for group III areas. The regulations require PM₁₀ SIPs to be submitted nine months after the federal PM₁₀ regulations became effective on July 31, 1987. However, because of the burdensome administrative requirements for adoption of rules in some states, they were given some flexibility in the scheduling of their PM₁₀ SIP submissions.

PM₁₀ Attainment Status in Kansas

Based upon existing TSP and PM₁₀ air quality data, there are no areas in Kansas where the standards are likely to be exceeded (group I) and one area where the attainment status is uncertain (group II). This group II area is the eastern portion of Kansas City, Kansas, in Wyandotte County. The remainder of the state is group III.

Based upon available PM₁₀ data and in accordance with section 110 of the Clean Air Act (CAA) and EPA regulations at 52 FR 24672, Kansas must meet the following requirements for EPA

to approve its SIP for PM₁₀: (1) Adopt acceptable revisions to its preconstruction review rules, (2) submit a committal SIP for Kansas City, Kansas, (3) revise the emergency episode plans to incorporate PM₁₀, and (4) revise the air monitoring plan, if necessary, to meet the requirements of 40 CFR part 58, and update the monitoring network to add PM₁₀.

The Kansas submittal consists of: (1) Revisions to the Kansas new source review rules, (2) a committal SIP for Kansas City, Kansas, (3) revised emergency episode rules which include PM₁₀, and (4) a revised Air Quality Surveillance Plan with updated network description for the National Air Monitoring Systems and the State and Local Air Monitoring System.

The Kansas submittal has been reviewed to determine if it meets the requirements of the CAA, EPA regulations, and applicable policies. EPA has determined that the submittal substantially meets all the requirements. The only exception concerns reporting of PM₁₀ data which exceed the standard within 45 days of the exceedance, which is required by EPA policy. The state of Kansas will commit to report such data within 60 days rather than 45 days. The state contends that the extra time is required for filter collection and transport by the local agency in the group II area, weighing of the filter by the state, and quality assurance and reporting of the data. EPA believes this is not a significant deviation from the requirements and finds the state has good cause for the extra reporting time. The technical support document contains a discussion of the other requirements of the submittal.

The draft PM₁₀ SIP was submitted by KDHE on December 14, 1988. This submittal was processed using parallel processing procedures. The proposed SIP was noticed for public comment in 54 FR 11413 on March 20, 1989. No comments were received during the public comment period. The state held a public hearing on the proposed SIP revisions on July 17, 1989, and formally adopted the proposed revisions. No substantive changes were made from the proposal. The state submitted its final SIP revision and committal SIP to EPA on October 5, 1989. The state provided evidence of a public hearing and notification that satisfies the requirements of 40 CFR 51.102.

Review of PM₁₀ Regulatory Revisions

The state made the following changes in its rules. A more detailed discussion is contained in the proposed rulemaking (54 FR 11413) and in the technical support document.

Rule definitions are contained in Rule 28-19-7. Rule 28-19-7(p) pertaining to particulate was revised to define particulate matter as any airborne finely divided solid or liquid material, except uncombined water. The state definition differs from that at 40 CFR 51.100(oo) in that it does not limit the upper size of particles to less than 100 micrometers, and excludes uncombined water. These two differences are acceptable. State rule 28-19-7(q) establishes a definition of PM₁₀ which is consistent with 40 CFR 51.100(pp), and 28-19-7(x) establishes a definition of TSP which is consistent with 40 CFR 51.100(ss). Rules 28-19-8, 28-19-14, 28-19-16a, 28-19-20, and 28-19-21 are amended to: (1) Change the effective date of the Federal regulations, which are adopted by reference; (2) include significant emission rate for PM₁₀; (3) change terminology to provide consistency with the definition in regulation 28-19-7, and (4) delete the definition of "Significantly contribute," since this requirement has been adopted by reference in the Prevention of Significant Deterioration (PSD) rule (K.A.R. 28-19-17).

Rule 28-19-17 pertains to new source permit requirements for designated attainment or unclassified areas. Rule 28-19-17a, Definitions, adopts all the pertinent definitions contained in 40 CFR 52.21(b) by reference; therefore, both PM₁₀ and TSP are addressed in the Kansas definitions of major stationary source, emission unit, best available control technology (BACT), and significant. Rule 28-19-17a(c) contains a definition of "applicable maximum allowable increase" which refers to the Prevention of Significant Deterioration (PSD) increments in section 163 of the CAA. The rule indicates that particulate matter in this case means TSP, which is defined at 28-19-7q. Rule 28-19-17b(h), which establishes the significance levels for determining whether a source shall be considered to cause or contribute to a violation of an NAAQS, was revised to include PM₁₀ levels and to satisfy the requirements of 40 CFR 51.165(b). Rules 28-19-17c, 28-19-17g, and 28-19-17i are amended to include the effective date of Federal regulations, which are adopted by reference. Rule 28-19-56, pertaining to alert, warning, and emergency levels contained in emergency episode plans, has been revised to be consistent with 40 CFR Appendix L. The state made a number of other technical corrections and minor wording changes in its regulations which are unrelated to PM₁₀. EPA concurs with these changes.

EPA Action: EPA approves the revised Kansas PM₁₀ SIP regulations and committal SIP submitted by Kansas on

Note: 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 requirements by the earlier deadlines. The earlier attainment dates are set out at 40 CFR part 52 (1980), § 52.879.

- a. July 1975.
- b. January 19, 1993.
- c. Air quality levels presently below secondary standards.
- d. December 31, 1982.

4. A new § 52.881 is added to read as follows:

§ 52.881 PM₁₀ State implementation plan development in group II areas.

The state has submitted a committal SIP for Kansas City, Kansas. The committal SIP contains all the requirements identified in the July 1, 1987, promulgation of the SIP requirements for PM₁₀ at 52 FR 24681, except the state will report the PM₁₀ data which exceed the standard within 60 days of the exceedance, rather than 45 days.

40 CFR part 81, subpart C, is amended as follows:

PART 81—[AMENDED]

Subpart C—Kansas

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

Authority: 42 U.S.C. 7401-7642.

2. Section 81.317 is amended by revising A. on the last entry in the attainment status designation table for TSP to read as follows:

§ 81.317 Kansas TSP.

KANSAS—TSP

| Designated area (county) | Does not meet primary standards | Does not meet secondary standards | Cannot be classified | Better than national standards |
|---|---------------------------------|-----------------------------------|----------------------|--------------------------------|
| Wyandotte County A. Most of the area between I-635 and the Missouri state line | | | | x |

[FR Doc. 90-838 Filed 1-12-90; 8:45 am]
BILLING CODE 6560-50-M

40 CFR Part 186

Updating of Pesticide Names

CFR Correction

In title 40 (Parts 150 to 189) of the Code of Federal Regulations, revised July 1, 1989, make the following corrections:

- 1. On page 448, remove § 186.2775.
- 2. Move § 186.2775 from page 447, and place it on page 448, after § 186.2750.
- 3. On page 447, insert § 186.2275, to read as follows:

§ 186.2275 N,N-Dimethylpiperidinium chloride.

(a) A tolerance is established for residues the plant growth regulator *N,N*-dimethylpiperidinium chloride in the following processed feed when present therein as a result of application of this plant growth regulator to growing cotton:

| Feed | Parts per million |
|----------------------|-------------------|
| Cottonseed meal..... | 3 |

[45 FR 27926, Apr. 25, 1980. Redesignated at 53 FR 24668, June 29, 1988].

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Parts 433 and 447

[BQC-064-F]

RIN 0938-AC64

Medicaid Program; State Plan Requirements and Other Provisions Relating to State Third Party Liability Programs

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final rule.

SUMMARY: This final rule implements certain Medicaid State plan requirements and other provisions relating to State third party liability (TPL) programs. Its provisions deal with: (1) The integration of a State's pursuit of third party claims with its Mechanized Claims Processing and Information Retrieval System; (2) exceptions to the cost avoidance method of claims payment in TPL situations; and (3) provider restrictions and penalties related to attempts at collection of cost sharing or portions of those amounts from Medicaid recipients when TPL has been established.

These regulations implement portions of section 9503 of the Consolidated Omnibus Budget Reconciliation Act of 1985.

DATE: These regulations are effective on February 15, 1990. For §§ 433.139(3) (i) and (ii), a State agency has until 90 days after receipt of a revised State plan preprint from HCFA central office to submit its plan amendments and required attachments to its HCFA regional office. For § 433.138(k), a State agency has until 120 days after receipt of revised State Medicaid Manual instructions from HCFA central office to submit its action plans to its HCFA regional office. We will not hold States out of compliance with the requirements of these final regulations if the States submit the necessary preprinted plan amendments and action plans by the appropriate dates.

FOR FURTHER INFORMATION CONTACT: Rick Friedman, (301) 966-3292—System Requirements and Performance Standards, and State Action Plans; Exceptions to Cost Avoidance Marty Svolos, (301) 966-4452—Provider Restrictions

SUPPLEMENTARY INFORMATION:

I. Background

The Medicaid program established by title XIX of the Social Security Act (the Act), provides medical assistance to certain low-income individuals and is administered by the States in accordance with Federal requirements. The program by law is intended to be the payor of last resort; that is, other available third party resources must be used before the Medicaid program pays