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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[KS 173-1173a; FRL-7455-9]

Approval and Promulgation of Implementation Plans; State of Kansas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking final action to approve a State Implementation Plan (SIP) revision submitted by the state of Kansas. This revision is a new regulation entitled "Prevention of Significant Deterioration of Air Quality" (PSD) and will replace the existing state PSD regulation. This rule was last adopted as a state rule in 1990; therefore, this revision adopts by reference Federal PSD regulations, as in effect on July 1, 2000. The effect of this approval is to ensure Federal enforceability of the state air program rules and to maintain consistency between the state-adopted rules and the approved SIP.

DATES: This direct final rule will be effective April 28, 2003, unless EPA receives adverse comments by March 28, 2003. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Comments may be mailed to Heather Hamilton, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

Copies of documents relative to this action are available for public inspection during normal business hours at the above-listed Region 7 location. The interested persons wanting to examine these documents should make an appointment with the office at least 24 hours in advance.

FOR FURTHER INFORMATION CONTACT: Heather Hamilton at (913) 551-7039.

SUPPLEMENTARY INFORMATION:

Throughout this document whenever "we," "us," or "our" is used, we mean EPA. This section provides additional information by addressing the following questions:

What is a SIP?

What is the Federal approval process for a SIP?

What does Federal approval of a state regulation mean to me?

What is being addressed in this document?
Have the requirements for approval of a SIP revision been met?
What action is EPA taking?

What Is a SIP?

Section 110 of the Clean Air Act (CAA) requires States to develop air pollution regulations and control strategies to ensure that State air quality meets the national ambient air quality standards established by EPA. These ambient standards are established under section 109 of the CAA, and they currently address six criteria pollutants. These pollutants are: carbon monoxide, nitrogen dioxide, ozone, lead, particulate matter, and sulfur dioxide.

Each State must submit these regulations and control strategies to us for approval and incorporation into the Federally-enforceable SIP.

Each Federally-approved SIP protects air quality primarily by addressing air pollution at its point of origin. These SIPs can be extensive, containing state regulations or other enforceable documents and supporting information such as emission inventories, monitoring networks, and modeling demonstrations.

What Is the Federal Approval Process for a SIP?

In order for State regulations to be incorporated into the Federally-enforceable SIP, States must formally adopt the regulations and control strategies consistent with State and Federal requirements. This process generally includes a public notice, public hearing, public comment period, and a formal adoption by a State-authorized rulemaking body.

Once a State rule, regulation, or control strategy is adopted, the State submits it to us for inclusion into the SIP. We must provide public notice and seek additional public comment regarding the proposed Federal action on the State submission. If adverse comments are received, they must be addressed prior to any final Federal action by us.

All State regulations and supporting information approved by EPA under section 110 of the CAA are incorporated into the Federally-approved SIP.

Records of such SIP actions are maintained in the Code of Federal Regulations (CFR) at title 40, part 52, entitled "Approval and Promulgation of Implementation Plans." The actual State regulations which are approved are not reproduced in their entirety in the CFR outright but are "incorporated by reference," which means that we have approved a given State regulation with a specific effective date.

What Does Federal Approval of a State Regulation Mean to Me?

Enforcement of the State regulation before and after it is incorporated into the Federally-approved SIP is primarily a state responsibility. However, after the regulation is Federally approved, we are authorized to take enforcement action against violators. Citizens are also offered legal recourse to address violations as described in section 304 of the CAA.

What Is Being Addressed in This Document?

This action approves the adoption of State rule K.A.R. 28-19-350, Prevention of Significant Deterioration of Air Quality, and approves the rescission of the existing rule sections K.A.R. 28-19-17a through 28-19-17q which comprised the prior body of Kansas' Prevention of Significant Deterioration of Air Quality regulations. K.A.R. 28-19-17 is being revised in order to provide a cross-reference to the new regulations. This revision adopts by reference 40 CFR 52.21, as in effect on July 1, 2000, with the exceptions of 52.21(a); 52.21(f) through (h); 52.21(m)(l)(v); 52.21(q); 52.21(s) through (u); and 52.21(w).

The proposed changes to the State Prevention of Significant Deterioration (PSD) program clarify that the following Federal changes have been adopted by the Kansas PSD Program: (1) Adoption of the PM10 (particulate matter with a nominal aerodynamic diameter of 10 micrometers or less) increment; (2) adoption of provisions regarding calculating actual emissions for electric utility steam generating units; (3) adoption of provisions relating to clean coal technology; (4) adoption of provisions relating to pollution control projects at existing electric utility steam generating units; (5) adoption of the significance level for non-methane organic compounds at municipal solid waste landfills; and (6) adoption of the significance levels for organics, metals and acid gases from municipal waste combustors. This action also allows the opportunity to renumber the PSD rules to further the ongoing renumbering of the Kansas Air Quality Regulations.

This regulation was adopted by the Kansas Department of Health and Environment on October 30, 2002, and became effective on November 22, 2002.

Have the Requirements for Approval of a SIP Revision Been Met?

The state submittal has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submittal also satisfied the