59 FR 43956, 43962 (August 25, 1994); 58 FR 54364 (October 21, 1993).

3. CAA section 112(l). Requirements for approval, specified in 40 CFR 70.4(b), encompass section 112(l)(5) requirements for approval of a program for delegation of section 112 standards as promulgated by EPA as they apply to Part 70 sources. Section 112(l)(5) requires that the state's program contain adequate authorities, adequate resources for implementation, and an expeditious compliance schedule, which are also requirements under Part 70. Therefore, the EPA is also approving under section 112(l)(5) and 40 CFR 63.91 the state's program for receiving delegation of section 112 standards for both Part 70 and non-Part 70 sources that are unchanged from Federal standards as promulgated.

4. CAA section 112(g). The EPA issued an interpretive notice on February 14, 1995 (60 FR 8333), which outlines EPA's revised interpretation of 112(g) applicability. The notice postpones the effective date of 112(g) until after EPA has promulgated a rule addressing that provision. The notice sets forth in detail the rationale for the revised interpretation.

The section 112(g) interpretive notice explains that EPA is still considering whether the effective date of section 112(g) should be delayed beyond the date of promulgation of the Federal rule so as to allow states time to adopt rules implementing the Federal rule, and that EPA will provide for any such additional delay in the final section 112(g) rulemaking. Unless and until EPA provides for such an additional postponement of section 112(g), Kansas must have a Federally enforceable mechanism for implementing section 112(g) during the period between promulgation of the Federal section 112(g) rule and adoption of implementing Federal regulations.

The EPA is aware that Kansas lacks a program designed specifically to implement section 112(g). However, Kansas does have a preconstruction review program that can serve as an adequate implementation vehicle during the transition period, because it would allow Kansas to select control measures that would meet Maximum Available Control Technology, as defined in section 112, and incorporate these measures into a Federally enforceable preconstruction permit.

EPA is approving Kansas' preconstruction permitting program under the authority of Title V and Part 70, solely for the purpose of implementing section 112(g) to the extent necessary, during the transition period between 112(g) promulgation and adoption of a state rule implementing EPA's section 112(g) regulations. Although section 112(l) generally provides authority for approval of state air programs to implement section 112(g), Title V and section 112(g) provide for this limited approval because of the direct linkage between the implementation of section 112(g) and Title V.

The scope of this approval is narrowly limited to section 112(g), and does not confer or imply approval for purposes of any other provision under the Act (e.g., section 110). This approval will be without effect, if EPA decides in the final section 112(g) rule that sources are not subject to the requirements of the rule until state regulations are adopted. The duration of this approval is limited to 18 months following promulgation by EPA of the 112(g) rule to provide adequate time for the state to adopt regulations consistent with the Federal requirements.

III. Administrative Requirements

A. Docket

Copies of the state submittal and other information relied upon for the final full approval are contained in a docket maintained at the EPA Regional Office. The docket is an organized and complete file of all the information submitted to, or otherwise considered by, EPA in the development of this final full approval. The docket is available for public inspection at the location listed under the **ADDRESSES** section of this document.

B. Executive Order 12866

The Office of Management and Budget has exempted this action from Executive Order 12866 review.

C. Regulatory Flexibility Act

The EPA's actions under section 502 of the Act do not create any new requirements, but simply address operating permits programs submitted to satisfy the requirements of 40 CFR Part 70. Because this action does not impose any new requirements, it does not have a significant impact on a substantial number of small entities.

D. Unfunded Mandates

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.

Through submission of these operating permit programs, the state of Kansas has elected to adopt the program provided for under Title V of the CAA. These rules bind the state to perform certain actions and also require the private sector to perform certain duties.

To the extent that the rules being proposed for approval by this action will impose new requirements, sources are already subject to these regulations under state law. EPA has determined that this proposed 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.

List of Subjects in 40 CFR Part 70

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Operating permits, Reporting record keeping requirements.

Dated: December 18, 1995.

Dennis Grams,

Regional Administrator.

Part 70, title 40 of the Code of Federal Regulations is amended as follows:

PART 70—[AMENDED]

1. The authority citation for part 70 continues to read as follows:

Authority: 42 U.S.C. 7401—7671q.

2. Appendix A to part 70 is amended by adding the entry for Kansas to read as follows:

Appendix A to Part 70—Approval Status of State and Local Operating Permits Programs

* * * * *

Kansas

(a) The Kansas Department of Health and Environment program submitted on December 12, 1994; April 7 and 17, 1995; November 14, 1995; and December 13, 1995. Full approval effective on February 29, 1996.

(b) [Reserved.]

* * * * *

[FR Doc. 96–1722 Filed 1–29–96; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 81

[Region II Docket No.147; NJ24–1–7249a, FRL–5404–8]

Air Quality Designations: Deletion of TSP Designations From New Jersey, New York, Puerto Rico and Virgin Islands

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is removing all total suspended particulate (TSP) area designations in New Jersey, New York, Puerto Rico and the Virgin Islands because they are no longer relevant. EPA promulgated revised prevention of significant deterioration (PSD) increments for particulate matter so that the PSD increments are now measured in terms of particulate matter with an aerodynamic diameter less than 10 microns (PM_{10}) instead of TSP. Section 107(d)(4)(B) of the Clean Air Act (Act) authorizes EPA to eliminate all area TSP designations once the PSD increments for PM_{10} are promulgated.

DATES: This rule is effective on April 1, 1996 unless adverse or critical comments are received by February 29, 1996. If the effective date is delayed, timely notice will be published in the Federal Register.

ADDRESSES: All comments should be addressed to: William S. Baker, Chief, Air Programs Branch, Environmental Protection Agency, Region II Office, 290 Broadway, New York, New York 10007–1866.

Copies of the documents relevant to this action are available for inspection during normal business hours at the following address: Environmental Protection Agency, Region II Office, Air Programs Branch, 290 Broadway, 20th Floor, New York, New York 10007–1866.

FOR FURTHER INFORMATION CONTACT: Kirk J. Wieber, Air Programs Branch, Environmental Protection Agency, 290 Broadway, 20th Floor, New York, New York 10007–1866, (212) 637–4249.

SUPPLEMENTARY INFORMATION:

Background

In 1971, EPA promulgated primary and secondary National Ambient Air Quality Standards (NAAQS) for particulate matter to be measured as TSP. Based upon better health effects information, on July 1, 1987 (52 FR 242634), EPA replaced the TSP NAAQS for particulate matter with a PM_{10} standard. On the same date, EPA promulgated final regulations under 40 CFR part 51 for state implementation of the revised NAAQS (52 FR 24672). In the preamble to that action, EPA announced that, because of the importance of the section 107 area designations to the applicability of the PSD increments for TSP, it would retain the TSP designations beyond the date on which EPA approves a state's revised PM_{10} State Implementation Plan (SIP). This would protect the applicability of the PSD increments for TSP until a PSD increment for PM_{10} could be established.

The 1990 Amendments to the Act contained several pertinent provisions relating to or affecting the TSP area designations. Under section 107(d)(4)(B) of the amended Act, Congress established by operation of law the first nonattainment area designations for PM_{10}, and mandated that areas not initially defined as nonattainment are considered to be unclassifiable.

Moreover, section 107(d)(4)(B) provided that any designation for particulate matter (measured in terms of TSP) that the Administrator promulgated prior to the date of enactment of the 1990 Amendments shall remain in effect for purposes of implementing the maximum allowable concentrations of particulate matter (measured in terms of TSP) PSD increments until the Administrator determines that such designation is no longer necessary for that purpose.

On June 3, 1993 (58 FR 31622), under the authority of section 166(f) of the Act, EPA published the final rulemaking replacing the PSD increments for TSP with equivalent PSD increments for PM_{10}, which became effective on June 3, 1994. As announced in the June 3, 1993 Federal Register notice, EPA intends to eliminate the TSP area designations from states and territories where the Federal PSD program is in effect. EPA has the legal responsibility for implementing the PSD program in New Jersey, New York, Puerto Rico, and the Virgin Islands pursuant to 40 CFR 52.1603, 52.1689, 52.2729, 52.2779, respectively. However, EPA has delegated the day-to-day PSD program administration to the states of New Jersey and New York. The delegation agreement provides for automatic adoption of the PSD increments for PM_{10} once the increments became effective.

Conclusion

In accordance with the information provided above, the states affected by today's rule do not have PSD regulations which have been approved by the EPA under the applicable implementation plan. Instead, the PSD regulations contained in 40 CFR 52.21 (the Federal PSD program) govern the review and approval of permits to construct and operate major stationary sources in these areas. Pursuant to section 166(b) of the Act, the new PSD increments for PM_{10} became effective on June 3, 1994—one year after promulgation. Accordingly, EPA is today deleting from the list of area designations in 40 CFR part 81, all of the designations for TSP in New Jersey, New York, Puerto Rico, and the Virgin Islands. Area designations which indicate the attainment status of each affected area with respect to the PM_{10} NAAQS already exist (56 FR 56694, November 1991), and the TSP area designations are no longer needed.

Nothing in this rule should be construed as permitting or allowing or establishing a precedent for any future request for revision to any applicable implementation plan. 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.

EPA is publishing this rule without prior proposal because EPA views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this Federal Register publication, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed. Thus, this direct final action will be effective April 1, 1996 unless, by February 29, 1996, adverse or critical comments are received.

If the EPA receives such comments, this rule 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 rule should do so at this time. If no adverse comments are received, the public is advised that this rule will be effective April 1, 1996. (See 47 FR 27073 and 59 FR 24059).

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. The deletion of TSP tables in part 81 does not create any new requirements.

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 costs to state, local, or tribal governments in the

aggregate; or to the 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 deletion of no longer applicable TSP tables does not include a Federal mandate that may result in estimated costs of $100 million or more to either state, local, or tribal governments in the aggregate, or to the private sector.

The Office of Management and Budget has exempted this action from review under Executive Order 12866.

Under section 307(b)(l) of the Act, petitions for judicial review of this rule must be filed in the United States Court of Appeals for the appropriate circuit within 60 days from date of publication. 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 rule may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

List of Subjects in 40 CFR Part 81

Environmental protection, Air pollution control, Particulate matter.

Dated: December 18, 1995.

Jeanne M. Fox,

Regional Administrator.

Part 81, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 81—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

§ 81.331 New Jersey

2. In § 81.331 the table entitled ''New Jersey—TSP'' is removed.

§ 81.333 New York

3. In § 81.333 the table entitled ''New York—TSP'' is removed.

§ 81.355 Puerto Rico

4. In § 81.355 the table entitled ''Puerto Rico—TSP'' is removed.

§ 81.356 Virgin Islands

5. In § 81.356 the table entitled ''Virgin Islands—TSP'' is removed.

[FR Doc. 96–1588 Filed 1–29–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 228

[FRL–5346–2]

Ocean Dumping; Final Site Designation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA designates an Ocean Dredged Material Disposal Site (ODMDS) in the Atlantic Ocean offshore Miami, Florida, as an EPA-approved ocean dumping site for the disposal of suitable dredged material. This action is necessary to provide an acceptable ocean disposal site for consideration as an option for dredged material disposal projects in the greater Miami, Florida vicinity. This site designation is for an indefinite period of time, but the site is subject to continuing monitoring to insure that unacceptable adverse environmental impacts do not occur.

EFFECTIVE DATE: February 29, 1996.

ADDRESSES: The supporting document for this designation is the Final Environmental Impact Statement (EIS) for Designation of an Ocean Dredged Material Disposal Site offshore Miami, Florida, August 1995, which is available for public inspection at the following locations:

A. EPA/Region 4, Coastal Programs Section, 345 Courtland Street, NE., Atlanta, Georgia 30365

B. Department of the Army, Jacksonville District Corps of Engineers, Planning Division, 400 West Bay Street, Jacksonville, FL 32232–0019.

FOR FURTHER INFORMATION CONTACT: Christopher J. McArthur, 404/347–1740 ext. 4289.

SUPPLEMENTARY INFORMATION:

A. Background

Section 102(c) of the Marine Protection, Research, and Sanctuaries Act (MPRSA) of 1972, as amended, 33 U.S.C. 1401 *et seq.*, gives the Administrator of EPA the authority to designate sites where ocean disposal may be permitted. On October 1, 1986, the Administrator delegated the authority to designate ocean disposal sites to the Regional Administrator of the Region in which the sites are located. This designation of a site offshore Miami, Florida, which is within Region 4, is being made pursuant to that authority.

The EPA Ocean Dumping Regulations promulgated under MPRSA (40 CFR ch. I, subchapter H, § 228.4) state that ocean dumping sites will be designated by promulgation in this part 228. A list of ''Approved Interim and Final Ocean Dumping Sites'' was published on January 11, 1977 (42 FR 2461 (January 11, 1977)). The list established the existing Miami (''Miami Beach'') site as an interim site. The site is now listed in 40 CFR 228.14(h)(6).

B. EIS Development

Section 102(2)(C) of the National Environmental Policy Act (NEPA) of 1969, as amended, 42 U.S.C. 4321 *et seq.*, requires that federal agencies prepare an Environmental Impact Statement (EIS) on proposals for legislation and other major federal actions significantly affecting the quality of the human environment. The object of NEPA is to build into the Agency decision making process careful consideration of all environmental aspects of proposed actions. While NEPA does not apply to EPA activities of this type, EPA has voluntarily committed to prepare EISs in connection with ocean disposal site designations such as this (see 39 FR 16186 (May 7, 1974).

EPA Region 4, in cooperation with the Jacksonville District of the U.S. Army Corps of Engineers (COE), has prepared a Final EIS entitled, ''Final Environmental Impact Statement for Designation of An Ocean Dredged Material Disposal Site Located Offshore Miami, Florida.'' On September 1, 1995, the Notice of Availability (NOA) of the FEIS for public review and comment was published in the Federal Register (60 FR 45717 (September 1, 1995)). Anyone desiring a copy of the EIS may obtain one from the address given above. The public comment period on the Final EIS was to have closed on October 2, 1995. However, the closing date was extended until October 17, 1995 due to a request by the State of Florida.

One comment letter was received in support of the Final EIS and no letters were received critical of the Final EIS. The letter of support endorsed the Site Management and Monitoring Plan (SMMP) and the SMMP team.

The EIS has served as a Biological Assessment for purposes of Section 7 of the Endangered Species Act coordination. By itself, site designation of the Miami ODMDS will not adversely impact any threatened or endangered species under the purview of the National Marine Fisheries Service