

Total Exemption—Asset Test. A report on Form FPI-1 is not required from any United States issuer who, as of the latest available closing date of its books, had total consolidated assets of less than \$100 million.

Exempted Holders of Record. A report on Form FPI-2 (Report for United States Holders of Record) is not required from any holder of record who held, for all its foreign customers, combined investments in securities of United States issuers aggregating \$10 million or less based on the fair market value as of December 31, 1984. This exemption does not apply to holders of record under common management or control, except where aggregate holdings of all holders of record under a single parent institution total \$10 million or less.

Charles Schotta,
Deputy Assistant Secretary for Arabian
Peninsula Affairs.

[FR Doc. 84-32419 Filed 12-10-84; 10:07 am]
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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-7-FRL-2734-4; EPA No. 1163]

Approval and Promulgation of Implementation Plans; State of Kansas

AGENCY: Environmental Protection
Agency (EPA).

ACTION: Notice of final rulemaking.

SUMMARY: The State of Kansas submitted amendments to its State Implementation plan (SIP) pertaining to prevention of significant deterioration (PSD) on May 5, 1983. These Kansas regulations are contained in K.A.R. 28-19-17 through K.A.R. 28-19-17l. On October 28, 1983 (48 FR 49874), EPA published a notice in the Federal Register proposing to approve these rules except for K.A.R. 28-19-17l. EPA believes the Kansas regulations are approvable with the exception of part of K.A.R. 28-19-17a and K.A.R. 28-19-17l. The purpose of today's action is to approve the Kansas PSD regulation. The EPA received no public comments on the October 28, 1983, proposed rulemaking.

EFFECTIVE DATE: This action is effective January 10, 1985.

ADDRESSES: Copies of the State submission are available during normal business hours at the following locations:

Environmental Protection Agency,
Room VII, Air Branch, 324 East 11th

Street, Room 1415, Kansas City,
Missouri 64108;
Environmental Protection Agency,
Public Information Reference Unit, 401
M Street, SW., Washington, D.C.
20460;

The Office of the Federal Register, 1100
L Street, NW., Room 8401,
Washington, D.C.

FOR FURTHER INFORMATION CONTACT:
Robert J. Chanslor, Environmental
Protection Agency, 324 East 11th Street,
Kansas City, Missouri 64108, at 816/374-
3791, (FTS 752-3791).

SUPPLEMENTARY INFORMATION: The State of Kansas adopted regulations K.A.R. 28-19-17 through K.A.R. 28-19-17l relating to PSD for new and modified sources on December 13, 1982. These regulations were adopted after a public hearing on November 30, 1982, and a 30-day public notice of the hearing. These regulations were officially submitted by the Secretary of the Kansas Department of Health and Environment as a revision to the Kansas SIP on May 5, 1983. The State provided evidence that the public notification and public hearing requirements of 40 CFR 51.4 have been satisfied.

A detailed discussion of the provisions of the Kansas PSD regulations may be found at 48 FR 49874 (October 28, 1983). That Federal Register notice discussed two minor problems with the Kansas regulations. K.A.R. 28-19-17a(d) incorrectly attributes area classifications for PSD purposes (Class I, II and III) to the Administrator. This regulation should be changed to show that current area classifications for PSD purposes were established under section 162 of the Clean Air Act, as amended. K.A.R. 28-19-17(c) must be changed to reflect the fact that netting calculations must not consider decreases previously relied upon by EPA for PSD permits. This change is required by 40 CFR 52.21(b)(3)(iii). The State of Kansas provided written commitments on June 20, 1984, to make the necessary changes to these State regulations as quickly as possible. Newly adopted State regulations become effective on May 1st of each year; thus, EPA expects the State corrections on or shortly after May 1, 1985.

K.A.R. 28-19-17a contains definitions adopted by reference from 40 CFR 52.21(b) as amended by EPA on June 25, 1982 (47 FR 27554). Among other revisions, that rulemaking excluded vessel activities from the definition of "building, structure, facility or installation" at 52.21(b)(6). On January 17, 1984, the Court of Appeals for the D.C. Circuit overturned this revision. For that reason, EPA cannot fully approve

the Kansas PSD regulations as they would apply to loading and unloading operations at marine terminals. In today's action, EPA is retaining authority under 52.21 for permitting terminal facilities and deferring action on the exclusion of vessel activities in the "building, structure, facility or installation" definition included in K.A.R. 28-19-17a until such time as EPA and then the State have an opportunity to revise the definition to conform to the Court ruling.

Action: EPA approves Kansas PSD regulations K.A.R. 28-19-17 and K.A.R. 28-19-17b through 28-19-17k. EPA approves the definitions in K.A.R. 28-19-17a, except for the exclusion of vessel activities in the definition of "building, structure, facility or installation." Applications for permits for marine terminal facilities must be submitted to EPA for approval. EPA will make a case-by-case determination of which emissions from vessel activities must be included in the source definition.

Kansas regulation K.A.R. 28-19-17l contains provisions which would approve the use of innovative control technology in lieu of best available control technology. The provisions of this State rule are inconsistent with 40 CFR 51.24(s) in that there is no provision for consent of the governor(s) of the other affected state(s). Inclusion of an allowance for innovative technology under 40 CFR 51.24(s) is optional for PSD SIPs. However, the regulation provides that, if a plan should allow for innovative technology, the consent of governors provision is a requirement.

Action: EPA disapproves K.A.R. 28-19-17l as part of the Kansas PSD SIP. Applications for permits pertaining to the use of innovative control technology must be submitted to EPA for approval.

40 CFR 52.884 authorizes EPA to regulate PSD sources in the State of Kansas. Today's action rescinds the EPA promulgated PSD regulations except for permit applications for new or modified marine terminals, sources wishing to use innovative control technology in lieu of best available control technology (BACT), and sources locating on Indian lands. These three permitting functions are retained by the EPA.

The proposed rulemaking at 48 FR 49874 proposed retention of 40 CFR 52.21(h) good engineering practice (GEP) stack height authority promulgated as part of the Kansas SIP at 40 CFR 52.884 until such time that the State adopts acceptable stack height regulations. The rationale was that the Kansas general stack height regulations at K.A.R. 28-19-

18 contain exemptions inconsistent with the EPA stack height requirement in the PSD regulations at 40 CFR 52.21(h). EPA is not taking any action on Rule K.A.R. 28-19-18 in this rulemaking. Action on the Kansas stack height regulations will be delayed until EPA's general stack height regulation is revised as required by *Sierra Club and NRDC v. EPA*, 719 F.2d 436 (D.C. Cir., 1983).

On October 11, 1983, the U.S. Court of Appeals for the District of Columbia ordered EPA to reconsider portions of the stack height regulations for stationary sources. These regulations, which implemented Section 123 of the Clean Air Act, were published at 47 FR 5864 (February 8, 1982). In its decision, the Court of Appeals struck down two provisions of those regulations and remanded several other provisions to EPA for reconsideration.

EPA has developed an interim stack height policy. Under this program, Kansas will be issuing permits and establishing emission limitations that may be affected by required revisions to the stack height regulations. For this reason, EPA has requested that the State include the following caveat in all potentially affected permit approvals until the stack height regulations are revised by EPA:

In approving this permit, the Kansas Department of Health and Environment has determined that the application complies with EPA's proposed amended stack height regulations published on November 9, 1984 (49 FR 44878). Once EPA promulgates final amended stack height regulations pursuant to the court remand in *Sierra Club v. EPA*, 719 F.2d 436 (D.C. Cir. 1983), this permit may be subject to modification. This may result in revised emission limitations or may affect other actions taken by the source owners or operators.

Kansas made a commitment to include this type of caveat in all affected permits by letter dated June 20, 1984. This letter is part of the SIP EPA is approving today.

Under Executive Order 12291, today's action is not "major." It has been submitted to the Office of Management and Budget (OMB) for review.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by 60 days from today. This action may not be challenged later in proceedings to enforce its requirements.

This notice of final rulemaking is issued under authority of Section 110, Section 301 and Part C, Subpart 1 of the Clean Air Act, as amended.

Incorporation by reference of the State Implementation Plan for the State

of Kansas was approved by the Director of the Federal Register on July 1, 1982.

List of Subjects in 40 CFR Part 52

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

Dated: December 5, 1984.

William D. Ruckelshaus,
Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. Section 52.870 is amended by adding new paragraph (c)(16) to read as follows. The introductory text of (c) is shown for the convenience of the reader and remains unchanged.

§ 52.870 Identification of plan.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified.

* * * * *

(16) New regulations K.A.R. 28-19-17 through K.A.R. 28-19-171 applicable to stationary sources subject to prevention of significant deterioration (PSD) permit requirements were submitted on May 5, 1983. Regulation K.A.R. 28-19-171 pertaining to the use of innovative control technology is not approved. By letter dated June 20, 1984, the State of Kansas agrees to follow the EPA interim stack height policy for each PSD permit issued until such time as EPA revises its general stack height regulations.

2. Section 52.884 is revised to read as follows:

§ 52.884 Significant deterioration of air quality.

(a) The requirements of section 160 through 165 of the Clean Air Act, as amended are met; except that:

(1) EPA retains PSD permit authority for Indian lands in the State of Kansas;

(2) Stationary source owners or operators seeking permits using innovative control technology in lieu of best available control technology (BACT) must obtain PSD permits from EPA; and

(3) Owners or operators of marine terminals seeking to obtain PSD permits to build new or modify existing loading or unloading facilities in the State of Kansas must obtain such permits from EPA.

(b) *Regulations for preventing significant deterioration of air quality.* The provisions of § 52.21(h) *Stack heights* are incorporated and made part of the applicable state plan for the State of Kansas for all permitting activities.

The provisions of § 52.21 (b) through (w) are incorporated and made part of the applicable state plan for the State of Kansas for purposes of EPA permitting.

[FR Doc. 84-32268 Filed 12-10-84; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[EC Docket No. 79-265]

Nighttime Power Limitations for Class IV AM Broadcast Stations; Effective Date

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action specifies the effective date for rule changes increasing the maximum nighttime power for Class IV AM stations, thereby making it possible for these stations to overcome interference problems. (April 13, 1984, 49 FR 14742).

EFFECTIVE DATE: December 15, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Jonathan David, Mass Media Bureau (202) 632-7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Order

In the matter of amendment of Part 73 of the Commission's Rules and Regulations Concerning the Nighttime Power Limitations for Class IV AM Broadcast Stations (EC Docket No. 79-265).

Adopted: November 30, 1984.

Released: December 3, 1984.

By the Chief, Mass Media Bureau.

1. On March 15, 1984, the Commission adopted a *Report and Order* in this proceeding amending the Commission's Rules to permit an increase in nighttime power for Class IV AM stations from the current maximum of 250 watts to 1,000 watts (1 kilowatt).

2. The new rules permit a four-fold nighttime power increase for Class IV stations, most of which now operate with a nighttime power of 250 watts. In addition, the Commission adopted special procedures to simplify the power increase process for most Class IV stations. For most Class IV stations (those that operate non-directionally daytime with 1 kw power) it will not be necessary to file an application to