

views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective on March 7, 1995 unless, within 30 days of its publication, adverse or critical comments are received.

If the EPA receives such comments, this action will be withdrawn before the effective date by simultaneously publishing a subsequent notice that will withdraw the final action.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 action should do so at this time. If no such comments are received, the public is advised that this action will be effective on March 7, 1995.

FINAL ACTION: EPA is approving the conditions described above as RACT for Nichols & Stone Company.

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.

This action has been classified as a Table 3 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214-2225), as revised by an October 4, 1993, memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation. A future notice will inform the general public of these tables. On January 6, 1989, the Office of Management and Budget (OMB) waived Table 2 and Table 3 SIP revisions from the requirement of section 3 of Executive Order 12291 for a period of two years. The U.S. EPA has submitted

a request for a permanent waiver for Table 2 and Table 3 SIP revisions. The OMB has agreed to continue the waiver until such time as it rules on U.S. EPA's request. This request continues in effect under Executive Order 12866 which superseded Executive Order 12291 on September 30, 1993.

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).

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 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 March 7, 1995. 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).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Ozone.

Note: Incorporation by reference of the State Implementation Plan for the State of Massachusetts was approved by the Director of the Federal Register on July 1, 1982.

Dated: September 18, 1994.

John DeVillars,

Regional Administrator, Region I.

Part 52 of chapter I, title 40 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 W—Massachusetts

2. Section 52.1120 is amended by adding paragraph (c)(100) to read as follows:

§ 52.1120 Identification of plan.

* * * * *

(c) * * *

(100) Revisions to the State Implementation Plan submitted by the Massachusetts Department of Environmental Protection on July 19, 1993.

(i) Incorporation by reference.

(A) Letter from the Massachusetts Department of Environmental Protection dated July 19, 1993 submitting a revision to the Massachusetts State Implementation Plan.

(B) Plan approval no. C-P-93-011, effective June 30, 1993, which contains emissions standards, operating conditions, and recordkeeping requirements applicable to Nichols & Stone Company in Gardner, Massachusetts.

(ii) Additional materials.

(A) Letter dated October 27, 1993 from Massachusetts Department of Environmental Protection submitting certification of a public hearing.

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3. In § 52.1167 Table 52.1167 is amended by adding a new entry to existing state citations for 310 CMR 7.18(17) to read as follows:

§ 52.1167 EPA-approved Massachusetts State regulations.

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TABLE 52.1167.—EPA-APPROVED RULES AND REGULATIONS

State citation	Title/subject	Date submitted by State	Date approved by EPA	Federal Register citation	52.1120 (c)	Comments/unapproved sections
* 310 CMR 7.18(17)	* RACT	* July 19, 1993 ..	* January 6, 1995.	* [Insert FR citation from published date].	* 100	* RACT Approval for Nichols & Stone Co.