

**PART 52—[AMENDED]**

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

Authority: 42 U.S.C. 7401 *et seq.*

**Subpart F—California**

■ 2. Section 52.220 is amended by adding paragraphs (c)(359)(i)(C)(3), (363)(i)(B)(2), (366)(i)(C) and (377)(i)(C) to read as follows:

**§ 52.220 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

(359) \* \* \*

(i) \* \* \*

(C) \* \* \*

(3) Rule 215, “Transfer of Gasoline Into Trucks, Trailers, and Railroad Tank Cars at Loading Facilities,” adopted on June 19, 1997.

\* \* \* \* \*

(363) \* \* \*

(i) \* \* \*

(B) \* \* \*

(2) Rule 316, “Storage and Transfer of Gasoline,” adopted on January 15, 2009.

\* \* \* \* \*

(366) \* \* \*

(i) \* \* \*

(C) Antelope Valley Air Quality Management District.

(1) Rule 461, “Gasoline Transfer and Dispensing,” adopted on October 21, 2008.

\* \* \* \* \*

(377) \* \* \*

(i) \* \* \*

(C) Ventura County Air Pollution Control District.

(1) Rule 70, “Storage and Transfer of Gasoline,” adopted on March 10, 2009.

\* \* \* \* \*

[FR Doc. 2011–1926 Filed 1–28–11; 8:45 am]

BILLING CODE 6560–50–P

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 81**

[EPA–R08–OAR–2010–0749; FRL–9260–6]

**Determination of Attainment for PM<sub>10</sub>; Columbia Falls and Libby Nonattainment Areas, Montana**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** EPA has determined that the Columbia Falls and Libby nonattainment areas in Montana attained the National Ambient Air

Quality Standard (NAAQS) for particulate matter with an aerodynamic diameter of less than or equal to a nominal ten micrometers (PM<sub>10</sub>) as of December 31, 1994.

**DATES:** This rule is effective on April 1, 2011 without further notice, unless EPA receives adverse comments by March 2, 2011. 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:** Submit your comments, identified by Docket ID No. EPA–R08–OAR–2010–0749, by one of the following methods:

- *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.

- *E-mail:* [freeman.crystal@epa.gov](mailto:freeman.crystal@epa.gov).

- *Fax:* (303) 312–6064 (please alert the individual listed in the **FOR FURTHER INFORMATION CONTACT** if you are faxing comments).

- *Mail:* Callie Videtich, Director, Air Program, Environmental Protection Agency (EPA), Region 8, Mailcode 8P–AR, 1595 Wynkoop Street, Denver, Colorado 80202–1129.

- *Hand Delivery:* Callie Videtich, Director, Air Program, Environmental Protection Agency (EPA), Region 8, Mailcode 8P–AR, 1595 Wynkoop Street, Denver, Colorado 80202–1129. Such deliveries are only accepted Monday through Friday, 8 a.m. to 4:30 p.m., excluding Federal holidays. Special arrangements should be made for deliveries of boxed information.

**Instructions:** Direct your comments to Docket ID No. EPA–R08–OAR–2010–0749. EPA’s policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov> or e-mail. The <http://www.regulations.gov> Web site is an “anonymous access” system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA, without going through <http://www.regulations.gov> your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you

submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional instructions on submitting comments, go to Section I. General Information of the **SUPPLEMENTARY INFORMATION** section of this document.

**Docket:** All documents in the docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically at <http://www.regulations.gov> or in hard copy at the Air Program, Environmental Protection Agency (EPA), Region 8, 1595 Wynkoop Street, Denver, Colorado 80202–1129. EPA requests that if at all possible, you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view the hard copy of the docket. You may view the hard copy of the docket Monday through Friday, 8 a.m. to 4 p.m., excluding Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Crystal Freeman, U.S. Environmental Protection Agency, Region 8, Air Program, Mail Code 8P–AR, 1595 Wynkoop Street, Denver, Colorado 80202–1129, (303) 312–6602, [freeman.crystal@epa.gov](mailto:freeman.crystal@epa.gov).

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## Definitions

For the purpose of this document, we are giving meaning to certain words or initials as follows:

(i) The words or initials *Act* or *CAA* mean or refer to the Clean Air Act, unless the context indicates otherwise.

(ii) The words *EPA*, *we*, *us* or *our* mean or refer to the United States Environmental Protection Agency.

(iii) The initials *SIP* mean or refer to State Implementation Plan.

(iv) The words *State* or *Montana* mean the State of *Montana*, unless the context indicates otherwise.

## I. General Information

*A. What should I consider as I prepare my comments for EPA?*

1. *Submitting CBI.* Do not submit this information to EPA through <http://regulations.gov> or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information placed on a disk or CD-ROM that you mail to EPA, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for Preparing Your Comments.* When submitting comments, remember to:

a. Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).

b. Follow directions—The agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

c. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

d. Describe any assumptions and provide any technical information and/or data that you used.

e. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

f. Provide specific examples to illustrate your concerns, and suggest alternatives.

g. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

h. Make sure to submit your comments by the comment period deadline identified.

## II. Background

### A. PM<sub>10</sub> Standard

The NAAQS are levels for certain ambient air pollutants set by EPA to protect public health and welfare. PM<sub>10</sub>, or particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers, is among the ambient air pollutants for which EPA has established health-based standards. On July 1, 1987 (52 FR 24634), EPA promulgated two primary standards for PM<sub>10</sub>: A 24-hour standard of 150 micrograms per cubic meter ( $\mu\text{g}/\text{m}^3$ ) and an annual PM<sub>10</sub> standard of 50  $\mu\text{g}/\text{m}^3$ . EPA also promulgated secondary PM<sub>10</sub> standards that were identical to the primary standards.

Effective December 18, 2006, EPA revoked the annual PM<sub>10</sub> standard but retained the 24-hour PM<sub>10</sub> standard.<sup>1</sup> 71 FR 61144 (October 17, 2006). The 24-hour PM<sub>10</sub> standard is attained when the expected number of days per calendar year with a 24-hour concentration above 154  $\mu\text{g}/\text{m}^3$ , as determined in accordance with 40 CFR part 50, appendix K, is equal to or less than one.<sup>2</sup> 40 CFR 50.6 and 40 CFR part 50, appendix K.

The EPA also promulgated policies and regulations by which it will implement the PM<sub>10</sub> NAAQS (52 FR 24672). In accordance with these policies, EPA has categorized areas of the Nation into three groups based on the likelihood that the existing SIP must be revised to protect the PM<sub>10</sub> NAAQS. Areas with a strong likelihood of violating the PM<sub>10</sub> NAAQS and requiring substantial SIP revisions were placed in Group I; areas where attainment of the PM<sub>10</sub> NAAQS is uncertain and the SIP may require only slight adjustment were placed in Group II; and areas with a strong likelihood of

attaining the PM<sub>10</sub> NAAQS, and therefore probably having an adequate control strategy, were placed in Group III.<sup>3</sup> By this notice, EPA is identifying the Group I and Group II areas in Montana that reached attainment.

### B. Columbia Falls PM<sub>10</sub> Nonattainment Area

On August 7, 1987 (52 FR 29383), EPA identified a number of areas across the country as PM<sub>10</sub> "Group II" areas of concern, that is, areas between 20% and 95% likelihood of violating the PM<sub>10</sub> NAAQS. The Columbia Falls PM<sub>10</sub> nonattainment area was identified as a Group II area of concern.

Areas meeting the requirements of section 107(d)(4)(B) were designated nonattainment for PM<sub>10</sub> by operation of law and classified "moderate" upon enactment of the 1990 Clean Air Act Amendments. 42 U.S.C. 7407(d)(4)(B). These areas included all former Group II PM<sub>10</sub> planning areas identified on August 7, 1987 (52 FR 29383), and other areas violating the NAAQS for PM<sub>10</sub> prior to January 1, 1989. On October 31, 1990 (55 FR 45799), EPA further clarified the descriptions of Group I and Group II areas of concern listed in the August 7, 1987 (52 FR 29383) notice. A **Federal Register** notice announcing the areas designated nonattainment for PM<sub>10</sub> upon enactment of the 1990 Clean Air Act Amendments, known as "initial" PM<sub>10</sub> nonattainment areas, was published on March 15, 1991 (56 FR 11101). The Columbia Falls PM<sub>10</sub> nonattainment area was one of these initial moderate PM<sub>10</sub> nonattainment areas.

### i. Attainment Date for the Columbia Falls PM<sub>10</sub> Nonattainment Area

All initial moderate PM<sub>10</sub> nonattainment areas had the same applicable attainment date of December 31, 1994. States containing initial moderate PM<sub>10</sub> nonattainment areas were required to develop and submit to EPA by November 15, 1991, a SIP revision providing for implementation of reasonably available control measures (RACM), including reasonably available control technology (RACT), and a demonstration of whether attainment of

<sup>1</sup> Because the annual PM<sub>10</sub> standard was revoked effective December 18, 2006, see 71 FR 61144 (October 17, 2006), this document discusses only attainment of the 24-hour PM<sub>10</sub> standard. Columbia Falls and Libby PM<sub>10</sub> nonattainment areas were in attainment of the revoked annual PM<sub>10</sub> standard.

<sup>2</sup> An exceedance is defined as a daily value that is above the level of the 24-hour standard (150  $\mu\text{g}/\text{m}^3$ ) after rounding to the nearest 10  $\mu\text{g}/\text{m}^3$  (i.e., values ending in 5 or greater are to be rounded up). Thus, a recorded value of 154  $\mu\text{g}/\text{m}^3$  would not be an exceedance since it would be rounded to 150  $\mu\text{g}/\text{m}^3$  whereas a recorded value of 155  $\mu\text{g}/\text{m}^3$  would be an exceedance since it would be rounded to 160  $\mu\text{g}/\text{m}^3$ . See 40 CFR part 50, appendix K, section 1.0.

<sup>3</sup> The EPA used a three-step process to categorize areas into Groups I, II, and III. First, where only ambient TSP data or limited amounts of PM<sub>10</sub> data were available, EPA in cooperation with State agencies used those data and the probability guideline to classify areas preliminarily as Group I, II, or III. The EPA presumed that, at a minimum, the (1) areas with a probability of not attaining the PM<sub>10</sub> standard of at least 95 percent fit into Group I; (2) areas with a probability of between 20 and 95 percent fit into Group II; and (3) areas with a probability of less than 20 percent fit into Group III. 52 FR 29383, 29384 (August 7, 1987).

the PM<sub>10</sub> NAAQS by the December 31, 1994 attainment date was practicable. See section 189(a).

ii. PM<sub>10</sub> Planning in the Columbia Falls PM<sub>10</sub> Nonattainment Area

After the Columbia Falls PM<sub>10</sub> nonattainment area was designated nonattainment for PM<sub>10</sub>, the Montana Board of Health and Environmental Sciences (MBHES) began in the early 1990s to prepare the technical elements needed to bring the area into attainment and meet the planning requirements of Title I of the CAA. Based on these technical elements, MBHES developed and implemented control measures on PM<sub>10</sub> sources in the Columbia Falls PM<sub>10</sub> nonattainment area. The Columbia Falls PM<sub>10</sub> SIP was originally adopted by the MBHES on January 24, 1992, and submitted to EPA on May 6, 1992. Deficiencies were identified by EPA and the final technical corrections were submitted to EPA on June 15, 1993. EPA approved the Columbia Falls PM<sub>10</sub> SIP on April 14, 1994, with technical corrections dated June 15, 1993 (59 FR 17700). The State failed to submit the contingency measures by the November 15, 1993, due date. On January 19, 1994, EPA made a finding that the State failed to submit the contingency measures. In response to this finding the Governor of Montana submitted revisions to the SIP for Columbia Falls dated August 26, 1994, to address the contingency measures and EPA approved the revisions on March 19, 1996 (61 FR 11153).

C. The Libby PM<sub>10</sub> Nonattainment Area

On August 7, 1987 (52 FR 29383), EPA identified a number of areas across the country as PM<sub>10</sub> "Group I" areas of concern, that is, areas with a 95% or greater likelihood of violating the PM<sub>10</sub> NAAQS and requiring substantial planning efforts. The Libby PM<sub>10</sub> nonattainment area was identified as a Group I area of concern.

Areas meeting the requirements of section 107(d)(4)(B) were designated nonattainment for PM<sub>10</sub> by operation of law and classified "moderate" upon enactment of the 1990 Clean Air Act Amendments. See 42 U.S.C. 7407(d)(4)(B). These areas included all former Group I PM<sub>10</sub> planning areas identified on August 7, 1987 (52 FR 29383), and other areas violating the NAAQS for PM<sub>10</sub> prior to January 1, 1989. On October 31, 1990 (55 FR 45799), EPA further clarified the descriptions of Group I and Group II areas of concern listed in the August 7, 1987 (52 FR 29383) notice. A **Federal Register** notice announcing the areas designated nonattainment for PM<sub>10</sub>

upon enactment of the 1990 Clean Air Act Amendments, known as "initial" PM<sub>10</sub> nonattainment areas, was published on March 15, 1991 (56 FR 11101). The Libby PM<sub>10</sub> nonattainment area was one of these initial moderate PM<sub>10</sub> nonattainment areas.

i. Attainment Date for the Libby PM<sub>10</sub> Nonattainment Area

All initial moderate PM<sub>10</sub> nonattainment areas had the same applicable attainment date of December 31, 1994. States containing initial moderate PM<sub>10</sub> nonattainment areas were required to develop and submit to EPA by November 15, 1991, a SIP revision providing implementation of RACM, including RACT, and a demonstration of whether attainment of the PM<sub>10</sub> NAAQS by the December 31, 1994 attainment date was practicable. See section 189(a).

ii. PM<sub>10</sub> Planning in the Libby PM<sub>10</sub> Nonattainment Area

After the Libby PM<sub>10</sub> nonattainment area was designated nonattainment for PM<sub>10</sub>, the MBHES began in the early 1990s to prepare the technical elements needed to bring the area into attainment and meet the planning requirements of Title I of the CAA. Based on these technical elements, MBHES developed and implemented control measures on PM<sub>10</sub> sources in the Libby PM<sub>10</sub> nonattainment area. The Libby PM<sub>10</sub> SIP was originally adopted by the MBHES on November 15, 1991, and submitted to EPA on November 25, 1991. Deficiencies were identified by EPA and revisions were adopted by MBHES on March 19, 1993, and submitted to EPA on May 24, 1993. Final technical corrections to the SIP were sent to EPA on June 3, 1994. EPA approved the Libby PM<sub>10</sub> SIP, with the exception of the contingency measures, on August 30, 1994 (59 FR 44627). The Governor of Montana submitted revisions to the contingency measures on March 15, 1995 and EPA approved the contingency measures on September 30, 1996 (61 FR 51014).

### III. Attainment Determination

A. What are the requirements for an attainment determination?

Generally, EPA determines whether an area's air quality is meeting the PM<sub>10</sub> NAAQS based upon complete, quality-assured data gathered at established state and local air monitoring stations (SLAMS) and national air monitoring stations (NAMS) in the nonattainment areas and entered in the EPA Air Quality System (AQS). Data from air monitors operated by state/local/tribal

agencies in compliance with EPA monitoring requirements must be submitted to AQS. EPA relies primarily on data in AQS when determining the attainment status of an area. See 40 CFR 50.6; 40 CFR part 50, appendix J; and 40 CFR part 58, appendix A. EPA will also consider air quality data from other air monitoring stations in the nonattainment area provided that the stations meet the federal monitoring requirements for SLAMS, including the quality assurance and quality control criteria in 40 CFR part 58, appendix A. 40 CFR 58.14 (2006) and 58.20 (2007);<sup>4</sup> 71 FR 61236, 61242 (October 17, 2006). All valid data are reviewed to determine the area's air quality status in accordance with 40 CFR part 50, appendix K.

Attainment of the 24-hour PM<sub>10</sub> standard is determined by calculating the expected number of exceedances of the standard in a year. The 24-hour standard is attained when the expected number of days per calendar year with a 24-hour concentration above 154 µg/m<sup>3</sup> is less than or equal to one. Generally, three consecutive years of air quality data are required to show attainment of the 24-hour PM<sub>10</sub> standard.

B. What do the air quality data show for the Columbia Falls PM<sub>10</sub> nonattainment Area?

Because the Columbia Falls PM<sub>10</sub> nonattainment area had a December 31, 1994, attainment date, our determination of whether or not the area attained the standard is based on 1992, 1993 and 1994 complete quality-assured data for the area. During that period, the State of Montana operated one PM<sub>10</sub> SLAMS monitoring site at the Columbia Falls Junior High School, which is within the Columbia Falls nonattainment area. The monitoring site met EPA SLAMS network design and siting requirements set forth at 40 CFR part 58, appendices D and E. The Columbia Falls Junior High School monitor began operation on April 21, 1987 and ceased operation on December 28, 2002.

Our review of complete quality-assured air quality data from the Columbia Falls Junior High School site for the period from January 1, 1992 through December 31, 1994, shows no data values exceeded the level of the 24-hour standard. Because there were no recorded exceedances of the 24-hour

<sup>4</sup> EPA promulgated amendments to the ambient air monitoring regulations in 40 CFR parts 53 and 58 on October 17, 2006. See 71 FR 61236. The requirements for Special Purpose Monitors were revised and moved from 40 CFR 58.14 to 40 CFR 58.20.

PM<sub>10</sub> standard during calendar years 1992–1994, the estimated number of PM<sub>10</sub> exceedances for the 1992–1994 period is 0.0, as seen in Figure 1. Therefore, the Columbia Falls

nonattainment area has demonstrated attainment for the 24-hour PM<sub>10</sub> NAAQS as of the attainment date of December 31, 1994. Additionally, we evaluated complete quality-assured air

quality data at all monitors within the Columbia Falls PM<sub>10</sub> nonattainment area after the attainment date of December 31, 1994 to 2009 and found no recorded exceedances.

FIGURE 1—NUMBER OF ESTIMATED PM<sub>10</sub> EXCEEDANCES IN COLUMBIA FALLS NONATTAINMENT AREA

	Columbia Falls Junior High School	Corner of C St & 4th Ave	Corner of C St & 4th Ave
	30-029-0003-2	30-029-0007-1	30-029-0007-2
1992 .....	0	*	*
1993 .....	0	*	*
1994 .....	0	*	*
1995 .....	0	*	*
1996 .....	0	*	*
1997 .....	0	*	*
1998 .....	0	*	*
1999 .....	0	*	*
2000 .....	0	*	*
2001 .....	0	0	*
2002 .....	0	0	*
2003 .....	*	0	*
2004 .....	*	0	*
2005 .....	*	0	0
2006 .....	*	0	0
2007 .....	*	0	0
2008 .....	*	0	0
2009 .....	*	0	0

\*No Data Collected.

*C. What do the air quality data show for the Libby PM<sub>10</sub> nonattainment area?*

Because the Libby PM<sub>10</sub> nonattainment area had a December 31, 1994, attainment date, our determination of whether or not the area attained the standard is based on 1992, 1993 and 1994 complete quality-assured data for the area. During that period, the State of Montana operated two PM<sub>10</sub> SLAMS monitoring sites within the Libby nonattainment area: the Lincoln County Courthouse site and the Libby Courthouse Annex site. Both monitoring sites met EPA SLAMS network design

and siting requirements set forth at 40 CFR part 58, appendices D and E. The Lincoln County Courthouse monitor began operation on April 21, 1987 and ceased operation on March 31, 1995. The Libby Courthouse Annex monitor began operating on October 8, 1993 and continues to operate.

Our review of complete quality-assured air quality data from the Lincoln County Courthouse site and the Libby Courthouse Annex site for the period from January 1, 1992 through December 31, 1994, shows no data values exceeded the level of the 24-hour standard. Because there were no

recorded exceedances of the 24-hour PM<sub>10</sub> standard during calendar years 1992–1994, the estimated number of PM<sub>10</sub> exceedances for the 1992–1994 period is 0.0, as seen in Figure 2. Therefore, the Libby nonattainment area has demonstrated attainment for the 24-hour PM<sub>10</sub> NAAQS as of the attainment date of December 31, 1994. Additionally, we evaluated complete quality-assured air quality data at all monitors within the Libby PM<sub>10</sub> nonattainment area after the attainment date of December 31, 1994 to 2009 and found no recorded exceedances.

FIGURE 2—NUMBER OF ESTIMATED PM<sub>10</sub> EXCEEDANCE IN LIBBY PM<sub>10</sub> NONATTAINMENT AREA

	Lincoln Courthouse	Libby Courthouse Annex	Libby Courthouse Annex
	30-053-0012-2	30-053-0018-1	30-053-0018-2
1992 .....	0	*	*
1993 .....	0	0	*
1994 .....	0	0	*
1995 .....	0	0	*
1996 .....	*	0	*
1997 .....	*	0	*
1998 .....	*	0	*
1999 .....	*	0	*
2000 .....	*	0	*
2001 .....	*	0	*
2002 .....	*	0	0
2003 .....	*	0	0
2004 .....	*	0	0
2005 .....	*	0	0
2006 .....	*	0	0
2007 .....	*	0	0

FIGURE 2—NUMBER OF ESTIMATED PM<sub>10</sub> EXCEEDANCE IN LIBBY PM<sub>10</sub> NONATTAINMENT AREA—Continued

	Lincoln Courthouse	Libby Courthouse Annex	Libby Courthouse Annex
	30-053-0012-2	30-053-0018-1	30-053-0018-2
2008 .....	*	0	0
2009 .....	*	0	*

\*No Data Collected

#### IV. EPA's Final Action

EPA is determining that the Columbia Falls and Libby areas have attained the PM<sub>10</sub> standard based on the three years of complete, quality-assured data as of the attainment date of December 31, 1994. For the period from 1992–1994, the expected exceedance for both areas is 0.0, which is equal to or less than the expected exceedance rate of 1.0 (40 CFR part 50, appendix K). Because complete quality-assured data for this period shows an expected exceedance rate equal to or below the PM<sub>10</sub> standard, EPA concludes that the areas have met the standard. Pursuant to CAA § 188(c), EPA is required to make a determination of attainment. There were no violations and therefore no health risk. EPA therefore determines that the Columbia Falls and Libby nonattainment areas have attained the 24-hour PM<sub>10</sub> NAAQS as of the December 31, 1994 attainment date.

#### V. Statutory and Executive Order Review

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);

- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and

- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**.

This action is not a "major rule" as defined by 5 U.S.C. 804(2).

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 April 1, 2011. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action 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. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. 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 81

Environmental protection, Air pollution control, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

Dated: January 20, 2011.

**James B. Martin,**

*Regional Administrator, Region 8.*

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## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

#### 44 CFR Part 64

[Docket ID FEMA-2011-0002; Internal Agency Docket No. FEMA-8167]

#### Suspension of Community Eligibility

**AGENCY:** Federal Emergency Management Agency, DHS.