populations. A Section 810 analysis was completed as part of the FEIS process. The final Section 810 analysis determination appeared in the April 6, 1992, ROD which concluded that the Federal Subsistence Management Program, under Alternative IV with an annual process for setting hunting and fishing regulations, may have some local impacts on subsistence uses, but the program is not likely to significantly restrict subsistence uses.

Paperwork Reduction Act

The adjustment and emergency closures do not contain information collection requirements subject to Office of Management and Budget (OMB) approval under the Paperwork Reduction Act of 1995.

Other Requirements

The adjustment and emergency closures have been exempted from OMB review under Executive Order 12866.

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) requires preparation of flexibility analyses for rules that will have a significant effect on a substantial number of small entities, which include small businesses, organizations, or governmental jurisdictions. The exact number of businesses and the amount of trade that will result from this Federal land-related activity is unknown. The aggregate effect is an insignificant economic effect (both positive and negative) on a small number of small entities supporting subsistence activities, such as boat, fishing tackle, and gasoline dealers. The number of small entities affected is unknown; but, the effects will be seasonally and geographically-limited in nature and will likely not be significant under the definition in this Act . The Departments certify that the adjustment and emergency closures will not have a significant economic effect on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

Title VIII of ANILCA requires the Secretaries to administer a subsistence preference on public lands. The scope of this program is limited by definition to certain public lands. Likewise, the adjustment and emergency closures have no potential takings of private property implications as defined by Executive Order 12630.

The Service has determined and certifies pursuant to the Unfunded Mandates Reform Act, 2 U.S.C. 1502 *et seq.*, that the adjustment and emergency closures will not impose a cost of $100 million or more in any given year on local or State governments or private entities. The implementation is by Federal agencies, and no cost is involved to any State or local entities or Tribal governments.

The Service has determined that the adjustment and emergency closures meet the applicable standards provided in Sections 3(a) and 3(b)(2) of Executive Order 12988, regarding civil justice reform.

In accordance with Executive Order 13132, the adjustment and emergency closures do not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. Title VIII of ANILCA precludes the State from exercising management authority over fish and wildlife resources on Federal lands. Cooperative salmon run assessment efforts with ADF&G will continue.

In accordance with the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951), E.O. 13175, and 512 DM 2, we have evaluated possible effects on Federally recognized Indian tribes and have determined that there are no effects. The Bureau of Indian Affairs is a participating agency in this rulemaking.

Drafting Information

William Knauer drafted this document under the guidance of Thomas H. Boyd, of the Office of Subsistence Management, Alaska Regional Office, U.S. Fish and Wildlife Service, Anchorage, Alaska. Taylor Brelsford, Alaska State Office, Bureau of Land Management; Rod Simmons, Alaska Regional Office, U.S. Fish and Wildlife Service; Bob Gerhard, Alaska Regional Office, National Park Service; Ida Hildebrand, Alaska Regional Office, Bureau of Indian Affairs; and Ken Thompson, USDA-Forest Service, provided additional guidance.

Authority: 16 U.S.C. 3, 472, 551, 668dd, 3101–3126; 18 U.S.C. 3551–3586; 43 U.S.C. 1733.

Dated: May 30, 2001.

Kenneth E. Thompson,

Subsistence Program Leader, USDA-Forest Service.

Thomas H. Boyd,

Acting Chair, Federal Subsistence Board.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[UT–001–0033; FRL–6996–9]

Clean Air Act Promulgation of Extension of Attainment Dates for PM_{10} Nonattainment Areas; Utah

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is granting a one-year extension of the attainment date for the Salt Lake County, Utah nonattainment area for particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM_{10}). EPA is also granting two one-year extensions of the attainment date for the Utah County, Utah PM_{10} nonattainment area. Salt Lake and Utah Counties failed to attain the National Ambient Air Quality Standards (NAAQS) for PM_{10} by the applicable attainment date of December 31, 1994. The action is based on EPA's evaluation of air quality monitoring data and extension requests submitted by the State of Utah. EPA is also making the determination that Salt Lake County, Utah attained the PM_{10} NAAQS as of December 31, 1995 and Utah County, Utah attained the PM_{10} NAAQS as of December 31, 1996. The intended effect of this action is to approve requests from the Governor of Utah in accordance with section 188(d) of the Clean Air Act (CAA).

EFFECTIVE DATE: This final rule is effective July 18, 2001.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air and Radiation Program, Environmental Protection Agency, Region VIII, 999 18th Street, Suite 300, Denver, Colorado 80202–2466. Copies of the State documents relevant to this action are available for public inspection at the Utah Department of Environmental Quality, Division of Air Quality, 150 North 1950 West, Salt Lake City, Utah 84114.

FOR FURTHER INFORMATION CONTACT: Cindy Rosenberg, EPA, Region VIII, (303) 312–6436.

SUPPLEMENTARY INFORMATION: On September 21, 2000 (65 FR 57127), EPA published a notice of proposed rulemaking (NPR) for Utah. The NPR proposed approval of a one-year extension of the attainment date for the Salt Lake County, Utah PM_{10} nonattainment area and two one-year extensions of the attainment date for the

Utah County, Utah PM_{10} nonattainment area.

Throughout this document, wherever ''we'', ''us'', or ''our'' are used, we mean the Environmental Protection Agency (EPA).

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I. EPA's Final Action

A. What Is EPA Approving?

In response to requests from the Governor of Utah, we are granting a one-year attainment date extension for the Salt Lake County, Utah PM_{10} nonattainment area and two one-year attainment date extensions for the Utah County, Utah PM_{10} nonattainment area in order to address CAA requirements. The effect of these actions is to extend the attainment date for the Salt Lake County, Utah PM_{10} nonattainment area from December 31, 1994 to December 31, 1995 and the attainment date for the Utah County, Utah PM_{10} nonattainment area from December 31, 1994 to December 31, 1995 and from December 31, 1995 to December 31, 1996. Our action to extend the attainment date for Salt Lake County is based on monitored air quality data for the national ambient air quality standard (NAAQS) for PM_{10} from the years 1992–94 and the action for Utah County is based on data from the years 1992–94 and 1993–1995. In addition, based on quality-assured data meeting the requirements of 40 CFR part 50, appendix K, we are determining that, as of December 31, 1995, Salt Lake County attained the PM_{10} NAAQS, and that, as of December 31, 1996, Utah County attained the PM_{10} NAAQS. With this final approval, consistent with CAA section 188, the areas will remain moderate PM_{10} nonattainment areas and avoid the additional planning requirements that apply to serious PM_{10} nonattainment areas.

This action should not be confused with a redesignation to attainment under CAA section 107(d) because Utah hasn't submitted a maintenance plan under section 175(A) of the CAA or met the other CAA requirements for redesignation. The designation status in 40 CFR part 81 will remain moderate nonattainment for both areas until such time as Utah requests, and meets the CAA requirements for, redesignations to attainment.

B. What Is the History Behind This Approval?

As initial moderate PM_{10} nonattainment areas, both Salt Lake and Utah Counties were required by CAA section 188(c)(1) to attain the PM_{10} NAAQS by December 31, 1994. Section 188(b)(2) of the CAA requires EPA to determine whether such moderate areas have attained the NAAQS or not within six months of the attainment date. In the event an area doesn't attain the NAAQS by the attainment date, section 188(d) allows States to request and EPA to approve attainment date extensions if certain criteria are met. On May 11, 1995, the State of Utah requested a one-year extension of the attainment date for both Salt Lake and Utah Counties. On October 18, 1995, we indicated that we were granting the requested one-year extensions. We also indicated in a letter dated January 25, 1996 that we would publish a rulemaking action on the extension requests ''in the very near future,'' but we didn't do so. Nor did we publish determinations in the **Federal Register** that the areas had not attained the NAAQS as of December 31, 1994. On March 27, 1996, the State of Utah requested a second one-year extension of the attainment date for Utah County. We didn't publish a determination in the **Federal Register** that Utah County had not attained the NAAQS as of December 31, 1995.

We are now approving the requested extension of the attainment dates for the Salt Lake County PM_{10} nonattainment area and the Utah County PM_{10} nonattainment area from December 31, 1994 to December 31, 1995. We are also approving the requested extension of the attainment date for the Utah County PM_{10} nonattainment area for an additional year—until December 31, 1996. As we explain more fully below, we believe these extensions are warranted under CAA section 188(d). In addition, we are finding that the Salt Lake County PM_{10} nonattainment area attained the PM_{10} NAAQS as of December 31, 1995 and the Utah County PM_{10} nonattainment area attained the PM_{10} NAAQS as of December 31, 1996.

II. Basis for EPA's Action

A. Salt Lake County

1. Explanation of the Attainment Date Extension for the Salt Lake County PM_{10} Nonattainment Area

a. *Air Quality Data.* We are using data from calendar year 1994 to determine whether the area met the air quality criteria for granting a one-year extension of the attainment date under section 188(d) of the CAA.

The Salt Lake County PM_{10} nonattainment area includes the entire county. In 1994, Utah's Department of Air Quality (UDAQ or Utah) operated six PM_{10} monitors, which were state and local air monitoring stations (SLAMS) and national air monitoring sites (NAMS), in Salt Lake County. We deemed the data from these sites valid and the data were submitted by Utah to be included in AIRS.

In 1994, there were eight exceedances of the 24-hour PM_{10} NAAQS at one monitor (North Salt Lake Site) and one exceedance of the 24-hour NAAQS at another monitor (AMC Site). Based on nearby construction activity, Utah requested that the eight exceedances recorded at the North Salt Lake Site in 1994 be excluded under our ''Guideline on the Identification and Use of Air Quality Data Affected By Exceptional Events,'' (EPA–450/4–86–007). We determined that the North Salt Lake monitor was influenced by highly localized, fugitive dust events caused by the construction activity occurring in the immediate area. Because of those impacts from localized construction near the North Salt Lake site, all data from June 8 to November 23, 1994 were excluded from the data set used in calculations for attainment/nonattainment purposes.

With the exclusion of the above-mentioned block of data, there was only one exceedance recorded at one other monitor (AMC site). Therefore, with only one exceedance of the PM_{10} NAAQS recorded in 1994, the area met one of the requirements to qualify for an attainment date extension under section 188(d).[1]

b. *Compliance with the Applicable SIP.* The State of Utah submitted the PM_{10} SIP for Salt Lake County on November 14, 1991. On December 18, 1992 (57 FR 60149), EPA proposed to

[1] The Act states that no more than one exceedance may have occurred in the area (see section 188(d)(2)). The EPA interprets this to prohibit extensions if there is more than one measured exceedance of the 24-hour standard at any monitoring site in the nonattainment area. The number of exceedances will not be adjusted to expected exceedances as long as the minimum required sampling frequencies have been met.

approve the plan as satisfying those moderate PM_{10} nonattainment area requirements that were due November 15, 1991. On July 8, 1994 (59 FR 35036), EPA took final action approving the Salt Lake County PM_{10} SIP. The SIP control strategies consist of controls for stationary sources and area sources (including controls for woodburning, mobile sources, and road salting and sanding) of primary PM_{10} emissions as well as sulfur oxide ($SOPM_X$) and nitrogen oxide (NO_X) emissions, which are secondary sources of particulate emissions.

Based on information the State submitted in 1995, we believe that Utah was in substantial compliance with the requirements and commitments in the applicable implementation plan that pertained to the Salt Lake County PM_{10} nonattainment area when the State submitted its extension request. The milestone report indicates that Utah had implemented most of its adopted control measures, and therefore we believe Utah substantially implemented the RACM/RACT requirements applicable to moderate PM_{10} nonattainment areas.

c. *Emission Reduction Progress.* With its May 11, 1995, request for a one-year attainment date extension for Salt Lake County, the State of Utah also submitted a milestone report as required by section 189(c)(2) of the Act that must, under section 171(1), demonstrate annual incremental emission reductions and reasonable further progress (RFP). On September 29, 1995, Utah submitted a revised version of the milestone report. The revised 1995 milestone report estimated current emissions from all source categories covered by the SIP and compared those estimates to 1988 actual emissions. These estimates of current emissions indicated that total emissions of PM_{10}, SO_2, and NO_X had been reduced by approximately 60,752 tons per year, from a 1988 value of 150,292 tons per year to a then current value of 89,540 tons per year.

The effect of these emission reductions appears to be reflected in ambient measurements at the monitoring sites. Data from these sites show no violations of either the annual or the 24-hour PM_{10} standard since the 1992–1994 period. Furthermore, in 1994 there was only one exceedance of the 24-hour standard and the highest monitored annual standard at any monitor was 47μg/m^3. This is evidence that the State's implementation of PM_{10} SIP control measures resulted in emission reductions amounting to reasonable further progress in the Salt Lake County PM_{10} nonattainment area.

2. Determination That the Salt Lake County PM_{10} Nonattainment Area Attained the PM_{10} NAAQS as of December 31, 1995

Whether an area has attained the PM_{10} NAAQS is based exclusively upon measured air quality levels over the most recent and complete three calendar year period. See 40 CFR part 50 and 40 CFR 50, appendix K. With the effective date of this action, the extended attainment date for Salt Lake County will be December 31, 1995, and the three year period will cover calendar years 1993, 1994, and 1995.

The PM_{10} concentrations reported at six different monitoring sites showed one measured exceedance of the 24-hour PM_{10} NAAQS between 1993 and 1995. Because data collection was less than 100% at these monitoring sites, the expected exceedance rate for 1994 was 1.03. For 1993 and 1995, it was 0.0. Thus, the three-year average was less than 1.0, which indicates Salt Lake County attained the 24-hour PM_{10} NAAQS as of December 31, 1995.

Review of the annual standard for calendar years 1993, 1994 and 1995 reveals that the area also attained the annual PM_{10} NAAQS by December 31, 1995. There was no violation of the annual standard for the three year period from 1993 through 1995.

B. Utah County

1. Explanation of the Attainment Date Extension for the Utah County PM_{10} Nonattainment Area

a. *Air Quality Data.* The Utah County PM_{10} nonattainment area includes the entire county. In 1994 and 1995, UDAQ operated four PM_{10} monitoring sites, which were either SLAMS or NAMS, in Utah County. We deemed the data from these sites valid and the data was submitted by Utah to be included in AIRS.

We are using data from calendar year 1994 to determine whether the area met the air quality criteria for granting a one-year extension of the attainment date, from December 31, 1994 to December 31, 1995, under section 188(d) of the CAA. We are using calendar year 1995 data to determine whether the Utah County area met the air quality criteria for granting an extension of the attainment date from December 31, 1995 to December 31, 1996.

In 1994, there were no exceedances of the 24-hour or annual PM_{10} NAAQS in Utah County. Since no exceedances of the PM_{10} NAAQS were recorded in 1994, the area met one of the requirements to qualify for a one-year attainment date extension under section 188(d).[2] In 1995, there were no exceedances of the 24-hour or annual PM_{10} NAAQS in Utah County. Since no exceedances of the PM_{10} NAAQS were recorded in 1995, the area met one of the requirements to qualify for a second one-year attainment date extension under section 188(d).

b. *Compliance with the Applicable SIP.* The State of Utah submitted the PM_{10} SIP for Utah County on November 14, 1991. On December 18, 1992 (57 FR 60149), EPA proposed to approve the plan as satisfying those moderate PM_{10} nonattainment area requirements due November 15, 1991. On July 8, 1994 (59 FR 35036), EPA took final action approving the Utah County PM_{10} SIP. The SIP control strategies consist of controls for stationary sources and area sources (including controls for woodburning, mobile sources, and road salting and sanding) of primary PM_{10} emissions as well as sulfur oxide (SO_X) and nitrogen oxide (NO_X) emissions, which are secondary sources of particulate emissions.

Based on information the State submitted in 1995, we believe that Utah was in substantial compliance with the requirements and commitments in the applicable implementation plan that pertained to the Utah County PM_{10} nonattainment area when Utah submitted its first extension request. The milestone report indicates that Utah County had implemented most of its adopted control measures, and therefore we believe Utah substantially implemented the RACM/RACT requirements applicable to moderate PM_{10} nonattainment areas. Based on information the State submitted in 1996, we believe that Utah was in substantial compliance with the requirements and commitments in the applicable implementation plan that pertained to the Utah County PM_{10} nonattainment area when the State submitted its second extension request. The milestone report indicates that the State continued to implement its adopted control measures, reducing PM_{10} loadings even further, and therefore we believe Utah substantially implemented its RACM/RACT requirements.

c. *Emission Reduction Progress.* With its May 11, 1995, request for a one-year attainment date extension for Utah County, the State of Utah also submitted

[2] The Act states that no more than one exceedance may have occurred in the area (see section 188(d)(2)). The EPA interprets this to prohibit extensions if there is more than one measured exceedance of the 24-hour standard at any monitoring site in the nonattainment area. The number of exceedances will not be adjusted to expected exceedances as long as the minimum required sampling frequencies have been met.

a milestone report as required by section 189(c)(2) of the Act that must under section 171(1), demonstrate annual incremental emission reductions and RFP. On September 29, 1995, Utah submitted a revised version of the milestone report. The revised 1995 milestone report estimated current emissions from all source categories covered by the SIP and compared those estimates to 1988 actual emissions. These estimates of current emissions indicated that total emissions of PM_{10}, SO_2, and NO_X had been reduced by approximately 3,129 tons per year, from a 1988 value of 25,920 tons per year to a then current value of 22,791 tons per year.

With its March 27, 1996 request for an additional one-year attainment date extension for Utah County, the State of Utah submitted another milestone report. Utah submitted a revised version of this milestone report on May 17, 1996. The March 27, 1996 milestone report estimated current emissions from all source categories covered by the SIP and compared those estimates to 1988 actual emissions. These estimates of current emissions indicated that total emissions of PM_{10}, SO_2, and NO_X had been reduced from the 1988 total by approximately 8,391 tons per year.

The effect of these emission reductions appears to be reflected in ambient measurements at the monitoring sites. Data from these sites show no exceedances of either the annual or the 24-hour PM_{10} standard in 1994 or 1995. The vast majority of monitored values were well below the 24-hour standard. The highest annual value recorded at any monitor during 1994 and 1995 was 39μg/m³. This is evidence that the State's implementation of PM_{10} SIP control measures resulted in emission reductions amounting to RFP in the Utah County PM_{10} nonattainment area.

2. Determination That the Utah County PM_{10} Nonattainment Area Attained the PM_{10} NAAQS as of December 31, 1996

Whether an area has attained the PM_{10} NAAQS is based exclusively upon measured air quality levels over the most recent and complete three calendar year period. See 40 CFR part 50 and 40 CFR part 50, appendix K. With the effective date of this action, the extended attainment date for Utah County will be December 31, 1996, and the three year period will cover calendar years 1994, 1995, and 1996.

The PM_{10} concentrations reported at four different monitoring sites showed no measured exceedances of the 24-hour PM_{10} NAAQS between 1994 and 1996, which indicates Utah County attained the 24-hour PM_{10} NAAQS as of December 31, 1996.

Review of the annual standard for calendar years 1994, 1995 and 1996 reveals that the area also attained the annual PM_{10} NAAQS by December 31, 1996. No monitoring sites showed a violation of the annual standard in the three year period from 1994 through 1996.

III. Summary of Public Comments and EPA's Responses

(1) *Comment:* Four commenters stated that they were in favor of EPA's proposed attainment date extensions for Salt Lake County and Utah County and that both nonattainment areas had met the requirements for receiving an attainment date extension. The commenters pointed out that both nonattainment areas have been attaining the PM_{10} NAAQS since their proposed extended attainment dates.

Response: We agree that both Salt Lake County and Utah County met all of the requirements to receive an extension of their attainment dates and that both counties attained the PM_{10} NAAQS.

(2) *Comment:* One commenter states that the granting of attainment date extensions after the attainment determination deadlines have passed is not allowed by the CAA. The commenter claims that because we didn't extend the attainment dates for Salt Lake and Utah Counties before the deadline for bumping up the areas, we were obligated to announce their reclassification to ''serious'' no later than June 31, [sic] 1995.

Response: The commenter is correct that the Act required us to determine by June 30, 1995 whether the areas had attained or not. The commenter is also correct that we failed to make this determination by June 30, 1995. The commenter argues that reclassification to serious is the only permissible result from our failure to make an attainment determination by June 30, 1995. However, the Act does not require this result.

Section 188(b)(2) of the Act reads, ''If the Administrator **finds** that any Moderate Area is not in attainment after the applicable attainment date—(A) the area shall be reclassified by operation of law as a Serious Area. * * *'' (emphasis added). We never made the requisite finding—that the areas had not attained by December 31, 1994—to trigger a bump up to ''serious'' and therefore, a bump up had not occurred. The commenter is attempting to read the requirement for an EPA finding of nonattainment out of the Act.

There is nothing in section 188 that states that EPA, having failed to meet the June 30, 1995 deadline for determining whether the areas had attained or not, is then bound to find that the areas did not attain. We believe that EPA retains discretion to avail itself of any of the options provided by the Act—find that the areas had attained, find that the areas had not attained, or find that an attainment date extension was warranted—if the criteria for such options are met. In this case, we believe that attainment date extensions were warranted, and we do not believe our delay in granting such extensions should form the basis for forcing a bump up of the areas to serious and the imposition of the stricter emission limits and controls that go along with such a bump up. It would indeed be odd, and in our view inconsistent with the statute, to ''penalize'' sources within the areas in question, due to our failure to act in a timely way.

We note again that in an October 18, 1995 letter to Russell Roberts, the then director of the Utah Division of Air Quality, we stated that we were granting the extensions, and in a subsequent letter, we stated that we would publish the requisite notices in the **Federal Register**. We failed to follow through with these actions in a timely way, and we are now trying to correct our failure.

Also, as indicated above, Salt Lake County and Utah County attained the PM_{10} NAAQS as of the extended attainment dates under this action (December 31, 1995 and December 31, 1996, respectively). Under these circumstances, a bump up makes even less sense.

(3) *Comment:* One commenter states that the attainment date extensions are contrary to our guidance, which requires states to submit requests for extensions under section 188(d) within 90 days after the attainment date, and requires resolution of such requests within 6 months after the attainment date. According to the commenter, the guidance clearly reads section 188(d) as applying only up to the point at which a bump up is required. The commenter argues that we have no basis for departing from our longstanding guidance in this matter.

Response: Nothing in the Act specifies a particular deadline for a State request for an attainment date extension. In this case, the State of Utah submitted an attainment date extension request on May 11, 1995, before section 188's June 30, 1995 deadline for us to determine the areas' attainment status. In addition, as noted in Utah's May 11, 1995 request, Utah had previously submitted a draft request to us. We think Utah initiated its request for attainment date extensions within a

reasonable period of time, and provided supplemental information to clarify the request in a timely way. Utah and EPA worked through issues with the request over the summer of 1995, and, in the fall of 1995, we indicated we were approving the extension requests. Under the circumstances, we think Utah's actions were reasonably consistent with our guidance. We don't believe the fact that Utah's formal request fell outside the 90-day period described in our guidance forms an adequate basis to ignore or deny Utah's request. Our guidance is just that—guidance; it cannot be considered a binding document.

We don't believe our guidance speaks to the issue of what should happen in a case where EPA fails to make an attainment determination by June 30, 1995, as required by the Act. If anything, our guidance clearly recognizes that we must first determine that the area has not timely demonstrated attainment of the NAAQS before the area is reclassified to serious under section 188(b). (See page 10 of our November 14, 1994 guidance memorandum, ''Criteria for Granting 1-Year Extensions of Moderate PM–10 Nonattainment Area Attainment Dates, Making Attainment Determinations, and Reporting on Quantitative Milestones,'' signed by Sally L. Shaver.) We believe our position is reasonable. The alternative position, expressed by the commenter, would impose the burden of EPA's failure to act in a timely way upon Utah (additional planning requirements) and sources within the areas (more stringent control requirements in the form of BACM/BACT), regardless of whether an extension of the attainment date is warranted. We don't believe this position is reasonable.

If EPA is not allowed to exercise its discretion to grant an extension of the attainment date where the statutory criteria have been met—discretion Congress provided us alongside the requirement to determine whether areas timely attained—it would appear to frustrate Congress' obvious desire to provide States that are close to achieving attainment an alternative to undergoing reclassification.

(4) *Comment:* One commenter refers to air quality data collected at an air monitoring station in Salt Lake County. The commenter asserts that the North Salt Lake monitoring station recorded a violation of the annual PM_{10} standard and eight exceedances of the 24-hour standard in 1994 and that we may not exclude these data from regulatory use. Thus, according to the commenter, Salt Lake County doesn't meet one of the criteria for an attainment date extension—that the area recorded no exceedances of the annual PM_{10} standard and no more than one exceedance of the 24-hour PM_{10} standard in the year preceding the extension year. The commenter quotes from a letter dated October 18, 1995, from Richard Long, Director, Air Program, EPA Region VIII, to Russell Roberts, Director, Utah Division of Air Quality. In the letter, we agreed to exclude some PM_{10} data collected at the North Salt Lake station in 1994 and agreed to grant a one-year extension of the attainment date. Attachment I of the letter elaborated our technical comments. Part of the attachment is quoted by the commenter and reads, ''The data collected at the North Salt Lake station in the summer and fall of 1994 should be regarded as ordinary data, unaffected by exceptional events.'' The commenter indicates that we had determined that the data had not met criteria for exclusion and we had concluded that there was no basis for excluding the data due to exceptional events. The commenter also points out that although we determined that the data didn't qualify as an exceptional event, we did decide that there were ''extenuating circumstances'' during the 1994 construction episode and because of this, the exceedances from the North Salt Lake monitor should be excluded. The commenter cites the EPA document, Guideline on the Identification and Use of Air Quality Data Affected by Exceptional Events, EPA–450/4–86–007 (1986) and asserts that the criteria in the document are the sole basis upon which we may exclude exceedances that are allegedly due to construction activity. The commenter asserts that neither the Act nor EPA rules or guidance allow the exclusion of exceedance data based on a generalized claim of ''extenuating circumstances.''

Response: We disagree with both of the commenter's assertions, i.e., that there was no basis for deciding to exclude the data, and that EPA had determined that the data had not met EPA criteria for exclusion from regulatory use. The commenter erroneously believes that the statement in the October 18, 1995 letter to the Director of Utah's DAQ indicating that we were not inclined to treat the 1994 North Salt Lake station's data as data affected by exceptional events precluded us from excluding the data for regulatory use on any other grounds.

Our regulations explaining the computations necessary for collecting and analyzing particulate matter data in order to make appropriate regulatory determinations, including attainment determinations, are found at appendix K of 40 CFR part 50. Section 1.0 of appendix K explains that ambient PM_{10} data must be measured by a reference method based on appendix J of part 50, and designated in accordance with 40 CFR part 53. Similarly, while expressly mentioning the required frequency of measurements, that section indicates, generally, that the data protocols to be followed in order to make determinations regarding attainment must be consistent with 40 CFR part 58. In addition to specifications regarding the frequency of ambient measurements, part 58 addresses other requirements, including proper siting of monitoring stations (to ensure that the data samples correctly reflect the regulatory goal for which monitoring is being undertaken—see 40 CFR part 58, appendix D), and pollutant-specific probe siting criteria (to ensure the uniform collection of compatible and comparable air quality data—see 40 CFR part 58, appendix E). It, therefore, follows logically that ambient data collected at sites not meeting the requirements of parts 50, 53, and 58 of 40 CFR (and their associated Appendices) may be determined by EPA to be inadequate, and, thus, be invalidated for purposes of regulatory decisionmaking.

Under appendix K (and associated guidance), high ambient values of PM_{10} that are determined to be due to exceptional events may be ''flagged'', i.e., marked for special treatment, when submitted to the AIRS database. This is because, when making required regulatory decisions, the use of such data —which may not be representative of typical ambient values— could result in inappropriate estimates of the expected annual value. Consequently, the 1986 Exceptional Events Guideline, cited by the commenter, sets forth criteria for flagging ambient data considered to have been influenced by exceptional events. However, the flagging of data does not, by itself, result in the exclusion of data from regulatory decision-making. The 1986 Guideline document defines several types of activities that influence ambient data and may qualify for exceptional events treatment, including construction projects. The Guideline provides guidance for States regarding how to treat and report data submitted under an exceptional events claim. The reporting methodologies includes the various conventions to ''flag'' or highlight the data when placing it in AIRS. Focusing, as it does, on exceptional events, the 1986 Guideline does not address, therefore, all the various circumstances and conditions under which EPA may

make determinations regarding whether such data should be excluded for regulatory purposes; it only advises States concerning what procedures they need to follow in making data exclusion requests. The guidance expressly states that the policy ''carries no prior presumption towards use or non-use of flagged data.'' And, indeed, decisions on how flagged data are used for specific regulatory purposes, e.g., attainment designations or demonstrations, control strategy, etc., are made by EPA on a case-by-case basis.

As noted earlier, the comments concern PM_{10} data, including eight exceedances of the 24-hour National Ambient Air Quality Standard, that were collected at the North Salt Lake station between June 8 and November 23, 1994, resulting in an annual arithmetic mean value for 1994 of 58μg/m³. Utah believed this data had been unduly affected by a construction project next to the air monitoring station, and advised us of its intention to flag the data. Consequently, when it transcribed the 1994 data onto computer files for submittal to AIRS, Utah included the letter ''J'' in a predetermined field associated with each PM_{10} concentration observed during the affected period. According to a convention of AIRS, the data were thereby flagged as having been, in Utah's opinion, influenced by an exceptional event. On December 19, 1994, Utah sent a letter requesting that we approve the data from the North Salt Lake station from June 8 to November 23, 1994 as having been influenced by an exceptional event. A decision to exclude the flagged data would have reduced the annual arithmetic mean value for 1994 to 47μg/m³. To show our concurrence, we could have added a ''J'' to a second field adjacent to each datum, according to the same AIRS convention. Utah's letter was accompanied by supporting material consistent with the 1986 Guideline.

In response to this request, we noted that a similar exceedance had occurred at the North Salt Lake station on September 30, 1993. The State had attached an exceptional events treatment flag when it reported the data in AIRS for the entire block of data recorded from August 28 through October 5, 1993, the life of the construction project. We had applied our concurrence flag only to the September 30 exceedance, however, indicating our agreement that at least that exceedance could be considered the result of an exceptional event. After reviewing Utah's 1994 request, we decided not to apply our ''J'' flags to the data collected from June 8 to November 23, 1994 because we believed that the ambient event did not satisfy criteria in our regulations and the 1986 Guideline for treatment as an exceptional event. Primarily, we concluded that the construction near the monitoring station during the summer and fall of 1994 was a recurrence within one year of similar construction activity, i.e., the 1993 construction project and its resultant exceedance, and exceptional events are defined, in part, as events that are not expected to recur at a given location. Also, the 1986 Guideline indicates that for consideration as an exceptional event certain activities must occur only over a ''short time period'', but, here, the 1994 construction project continued for longer than 30 days, (30 days being our general rule of thumb for what is meant by the term ''short time period'' as used in the 1986 Guideline). We advised Utah of our decision in a letter dated March 20, 1995. In the same letter we advised Utah that we ''may have some latitude in how these data will be used in determining the attainment status' of Salt Lake County, and asked the State for additional information. As the letter further explained, ''[w]e will use the additional information when considering the attainment status of the area.''

Our October 18, 1995 letter to Utah conveyed two determinations made by us regarding the data collected at the North Salt Lake station between June 8 and November 23, 1994: (1) That we did not consider the data to have been affected by exceptional events; and (2) that the data would, nonetheless, be excluded from the data set used in the calculations for attainment on other grounds. In deciding to exclude the data, we considered several factors that were subsequently brought to our attention by the State in support of their data exclusion request, in addition to the explanation of the construction event given in Utah's December 19, 1994 letter. These include the following:

1. Photographs, tables of PM_{10} concentrations, chemical analyses in support of mass balance estimations, and the results of computer modeling of chemical mass balance, all of which were revised analyses and/or elaborations or clarifications of supporting materials submitted with Utah's December 19, 1994 letter.

2. More extensive explanations of information contained in a letter from the Salt Lake City Department of Public Utilities describing relevant conditions at the project site, and a labor dispute that disrupted the construction project, also submitted with Utah's December 19, 1994 letter.

3. The State's arguments emphasizing that the small size of the area disturbed during the construction project, that is to say, the localized character of the episode, tended to prove that conditions, and the consequent ambient values recorded at this single monitor, were not representative of ambient values throughout the nonattainment area, or with historically recorded values during summer/early fall months.

4. Additional information in support of the State's attempt to distinguish the construction project in 1994 (the extension of a sewer line) as different from the 1993 construction project (the extension of a pipeline through a portion of roadway), as a basis for the assertion that the construction, although similar in type, was non-recurring.

5. Additional materials providing further explanation of the 1994 ambient events, given in Utah's letter to EPA of April 20, 1995 (mis-dated March 24, 1995).

6. Additional materials providing further explanation of the 1994 ambient events, submitted with Utah's milestone report of September 29, 1995.

The letter from the Salt Lake City Department of Public Utilities mentioned in the above list explains that the construction project was contracted to a private individual and that, during the initial phase, a deep trench was dug about 40 feet east of the site, and the road proceeding north from the site was also trenched in the middle for about a ¼ of a mile. Along with gravel pit and hauling activities, the project involved frequent dirt spillage along the road. This dirt became airborne as a result of heavy vehicular traffic during commuter hours. Due to a dispute over the contract, work was stopped at the construction site between August 10 and September 26. EPA was also advised that, although the contract required dust control measures to be undertaken during the life of the project, it appears that this requirement of the contract was not being adhered to. During the month-and-a-half long work-stoppage, the trench had been backfilled to the surface, but was not paved, so that dirt and sediment continued to escape. Moreover, the placement of barricades and ''closed'' signs on the road were apparently not successful in deterring vehicular traffic and dust re-entrainment also continued to occur. Again, it should be noted that this construction area was in extremely close proximity to the monitoring station in question (estimated as being within 20 feet of the monitor, which is located on a platform 4 meters above ground level).

As described earlier, requirements that monitoring stations adhere to proper monitoring objectives and scale of representativeness are found in 40 CFR part 58, appendix D. In our letter to Utah dated March 20, 1995, discussed earlier in this response, although we disapproved their request for exceptional events treatment, we asked the State to provide additional information on the events leading to the exceedances. In particular, we commented on and requested further information about the appropriateness of the monitoring station site. The letter stated:

> The site of the construction with respect to the monitoring station should have been evaluated by the State to ensure the reasonableness of continuing to monitor at this station * * * The State could have requested temporarily halting PM_{10} monitoring or relocating the PM_{10} monitor to help avoid the construction influence but still monitor the area per the PM_{10} SIP. The State should explain why this was not done.

Based on our review of the additional explanatory materials supplied by Utah at our request, we believed that during the period of construction activity in 1994 when eight PM_{10} exceedances were recorded, the North Salt Lake station did not meet the approved monitoring objective or scale of representativeness required under 40 CFR part 58. Subsequent to this, we did ask Utah to consider re-siting the monitor because of these episodes. In particular, the proximity of the earth-moving activities to the air monitoring station, and the failure of the construction company to effectively implement dust suppression control measures at the trenched areas on-site and along the roadway, and at the site in general, resulted in the station's effective noncompliance with the probe siting criteria and requirements of 40 CFR part 58, appendix E. The version of this regulation that was in effect in 1994 read, in part: ''Stations should not be located in an unpaved area unless there is vegetative ground cover year round, so that the impact of wind blown dusts [sic] will be kept to a minimum.'' For all of these reasons, we determined that it was appropriate to exclude the data collected at the North Salt Lake monitoring station as unrepresentative of ambient effects on the population exposed to the particulate matter generated during this period. Accordingly, because this data was deemed to be inappropriate for NAAQS purposes, we exercised our discretion under 40 CFR part 50, appendix K to exclude the data from regulatory use.

(5) *Comment:* One commenter states that Utah has not met one of the prerequisites for an attainment date extension—section 188(d)'s requirement that the State has complied with all requirements and commitments pertaining to the area in the applicable implementation plan. The commenter cites to several EPA letters to Utah that identified concerns with State implementation of SIP measures. According to the commenter, there is no showing in the record that all our concerns were met and that Utah had fully implemented the SIP.

Response: The commenter is correct that we had identified a number of concerns with SIP implementation during the summer of 1995. However, at our behest, the State revised its milestone report/extension request and re-submitted it to us on September 29, 1995. On October 18, 1995, we found that the revised report was sufficient to meet our concerns, and indicated that we would grant the State's request for a one-year extension for Salt Lake and Utah Counties. In that October 18, 1995 letter, from Richard R. Long, to Russell Roberts, we stated the following:

> The State has addressed EPA's comments regarding additional support for the emission reductions from street salting. EPA's comments on diesel I/M implementation and growth rates have also been addressed. In addition, the State has addressed EPA's comments regarding documentation for woodburning program implementation. Finally, we are pleased to see that the State has also provided additional information regarding new source review and compliance for stationary sources.

We believe the State's September 1995 revised milestone report/extension request, and May 17, 1996 extension request for Utah County, are adequate to support this action.

The language of section 188(d)(1) of the Act states that the Administrator may extend the attainment date if ''the State has complied with all requirements and commitments pertaining to the area in the applicable implementation plan * * *'' The commenter insists that we cannot redefine the word ''all'' to mean ''some'' or ''most'' and asserts that if there has not been 100% compliance with SIP requirements, the provisions of 188(d)(1) have not been met.

Initially, we note that the language of section 188(d)(1) refers to SIP requirements and commitments that apply to the State, not individual sources. The State has an obligation under section 110 of the Act to enforce the requirements of the SIP, but it would be unreasonable to expect the State to take an enforcement action for every apparent violation of the SIP or to achieve 100% source compliance nor have we interpreted section 110 to require that level of enforceability. Furthermore, we believe that substantial compliance or compliance with most requirements and commitments on the part of the State is sufficient to support an extension where the State has demonstrated RFP toward attaining the NAAQS. We do not believe Congress' goal was to bump areas up to serious that didn't attain by their applicable deadline, but appeared likely to achieve attainment through further implementation of control measures in the SIP.

The structure of our 1994 Guidance (''Attainment Determination and the Processing of Initial PM_{10} Nonattainment Area SIPs,'' November 14, 1994, signed by Sally Shaver) further explains why we believe that substantial compliance is adequate to support an attainment date extension. Section III of the Guidance contains our criteria for obtaining an extension of the attainment date, and makes clear that we were prepared to grant extensions to PM_{10} areas that had not yet received EPA approval of their nonattainment SIPs. In these cases, the Guidance clearly indicates that State compliance is to be measured against the latest federally-approved particulate matter SIP for the area, and in many instances, this would have been a SIP submitted in response to the pre-1990 Clean Air Act. To further address this issue, we provided in the Guidance that we expected States to demonstrate that (1) control measures had been submitted in the form of a SIP revision and substantially implemented to satisfy the RACM/RACT requirement for the area, and (2) the area had made emission reduction progress that represented reasonable further progress toward timely attainment of the PM_{10} NAAQS. In addition, we did not state that we would not grant an extension if the State failed to meet these requirements, but rather that we would be ''disinclined to grant an attainment date extension'' in such a case.

In other words, our Guidance recognized the difficulties some areas were having submitting their PM_{10} SIPs and gaining EPA approval within the time frames provided by the 1990 Amendments and indicated our belief that we had some flexibility under the Act to grant extensions of the attainment date even if all the measures required by the 1990 amendments were not fully implemented at the time the request was made. Pursuant to this approach, we approved a number of extension requests. Denver's PM_{10} attainment date was extended in a **Federal Register** notice published on October 6, 1995 (60 FR 52312) prior to the approval of a SIP

for the area. Likewise, the attainment dates were extended for Spokane, Washington and Wallula, Washington (60 FR 47276), and Power-Bannock Counties, Idaho and Sandpoint, Idaho (61 FR 20730), with a second one-year extension granted for Power-Bannock Counties (61 FR 66602). Given our prior practice, we believe it would be unfair to demand more from the Salt Lake and Utah County areas especially since Utah submitted a nonattainment SIP for these areas by the November 15, 1991 statutory deadline and we approved the SIP before the December 31, 1994 statutory attainment date.

So, in our view, substantial implementation is an appropriate benchmark. For both counties, the SIP includes four main types of measures: solid fuel burning provisions, road salting and sanding provisions, mobile source provisions, and stationary source provisions. The State's 1995 milestone report/extension request for both counties, and 1996 report/extension request for Utah County, indicate that the State substantially implemented the measures described in the SIP for these four categories. For example, the State implemented a mandatory no-burn program in both counties that was substantially similar to the program described in the SIP. The State adopted a rule for road salting and sanding that requires application of salt that is at least 92% sodium chloride, other material as clean as salt, or vacuum sweeping within three days of the storm. Although this wasn't identical to the federally approved measure in the SIP at the time, we believe it achieves substantially equivalent results. In fact, Utah submitted a SIP revision on February 1, 1995 that embodies the revised rule. We approved this SIP revision on February 6, 1999 (64 FR 68031) based on our belief that it achieves substantially equivalent results to the original provision.

The SIP discusses the possibility of closing Provo Canyon to truck traffic. The State placed a monitor in Provo Canyon to evaluate the impact of diesel traffic on air quality. Because the monitoring showed no significant impact, the State concluded that there would be no benefit from restricting heavy duty truck traffic from Provo Canyon. Although Utah never implemented closure of Provo Canyon to truck traffic, the State did not actually commit to such a closure in the SIP.

The State began implementing a diesel I/M program on December 1, 1994 that is substantially similar to the program outlined in the SIP. We note that the SIP language provided for modification of the program in response to program experience and additional information.

For stationary sources, the State substantially implemented the requirements contained in the SIP. In particular, the largest sources in the areas installed and implemented RACT as anticipated by the SIP. We note that in some cases, the State adopted and implemented changes to the emissions limitations contained in the SIP. Although we don't agree with them, we don't believe it is appropriate to penalize the State for making such changes because the language of the currently-applicable SIP appears to allow the State such latitude (see UACR 307–1–3.2.4; Appendix A to PM_{10} SIP.) We have had ongoing discussions with the State regarding these ''director's discretion'' provisions in the context of the State's future development of redesignation requests and maintenance plans for the two counties, and have informed the State that we believe this apparent discretion to unilaterally change SIP terms is inconsistent with the SIP oversight role provided EPA under the Act, and would need to be removed if maintenance plan submissions for these areas are to be found approvable.

The commenter is correct that our undated letter from Douglas Skie to Russell Roberts cited concerns with permit language that purported to replace SIP limits with emission limits in ''approval orders.'' Based on this letter and other elements of our comments at the time, it appears that we were evaluating the State's implementation based on our traditional view that SIP requirements may not be modified without EPA approval of a SIP revision. However, given the language referenced above, that is contained in the currently-applicable SIP authorizing such changes, we don't believe that insisting on this traditional view in response to past actions is appropriate. We believe SIP implementation must be evaluated against the SIP as written, even though we may not agree with all SIP terms.

Also, the commenter characterizes some of the implementation issues as ''deficiencies in the state's NSR program'' and states that ''[a] fully adequate NSR program is a mandatory SIP requirement as well.'' We don't believe the commenter has accurately characterized the situation. Utah had and continues to have a fully approved NSR program. While there were issues with some permitting actions, our October 18, 1995 letter indicated that most of these were resolved or were non-critical in nature. There were only two that we deemed time-critical, and we stated our satisfaction with the progress made with respect to these since the State was actively working to resolve our issues when we sent our October 18, 1995 letter.

(6) *Comment:* One commenter refers to our October 18, 1995 letter and points out that this letter sets out four conditions that Utah would have to meet under the terms of the attainment date extensions and says that the agency has failed to demonstrate that those conditions have been fully met.

Response: Although these four comments were referred to as conditions in our letter to Utah, these conditions are not required under the statute or in our policy in order for an area to receive an attainment date extension. Thus, we believe these ''conditions'' are irrelevant to our action here in granting such extensions. Nonetheless, we believe Utah substantially met these conditions as described elsewhere in this document.

(7) *Comment:* One commenter states that we must announce that both nonattainment areas are reclassified to serious because they failed to attain the PM_{10} NAAQS by the December 31, 1994 attainment date.

Response: We are not reclassifying either Salt Lake County or Utah County to serious nonattainment because, as this action explains, these areas qualified for attainment date extensions and subsequently attained by the extended attainment dates. The action to extend the attainment dates for these areas is being finalized in this action.

IV. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. This action merely approves a state request as meeting federal requirements and imposes no requirements. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). Because this rule does not impose any enforceable duty, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). For the same reason, this rule also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13084 (63 FR 27655, May 10, 1998). This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or

on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state request for an attainment date extension, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

Because EPA's role concerning today's action is only to approve a state request for an attainment date extension, provided that such request meets the criteria of the Clean Air Act, and to make determinations required of EPA by the CAA, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note), relating to the use of voluntary consensus standards, do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings' issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

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 rule 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). This rule will be effective July 18, 2001.

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 August 17, 2001. 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, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

Dated: June 6, 2001.

Jack W. McGraw,

Acting Regional Administrator, Region VIII.

40 CFR part 52, of chapter I, title 40 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 et seq.

Subpart TT—Utah

2. Section 52.2322 is added to read as follows:

§ 52.2322 Extensions.

* * * * *

(a) The Administrator, by authority delegated under section 188(d) of the Clean Air Act, as amended in 1990, extends for one year (until December 31, 1995) the attainment date for the Salt Lake County PM_{10} nonattainment area. The Administrator, by authority delegated under section 188(d) of the Clean Air Act, as amended in 1990, extends for two years (until December 31, 1996) the attainment date for the Utah County PM_{10} nonattainment area.

(b) [Reserved]

[FR Doc. 01–15031 Filed 6–15–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MT–001–0024, MT–001–0025, MT–001–0026; FRL–6986–1]

Clean Air Act Approval and Promulgation of Air Quality Implementation Plan; Montana; East Helena Lead State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA is partially approving and partially disapproving the East Helena Lead (Pb) State Implementation Plan (SIP) revisions submitted by the Governor of Montana on August 16, 1995, July 2, 1996, and October 20, 1998. The EPA is partially approving and partially disapproving these SIP revisions because, while they strengthen the SIP, they also do not fully meet the Act's provisions regarding plan requirements for nonattainment areas. The intended effect of this action is to make federally enforceable those provisions that EPA is partially approving, and *not* make federally enforceable those provisions that EPA is partially disapproving. The EPA is taking this action under sections 110, 179, and 301 of the Clean Air Act (Act).

EFFECTIVE DATE: This final rule is effective July 18, 2001.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air and Radiation Program, Environmental Protection Agency, Region VIII, 999 18th Street, Suite 300, Denver, Colorado, 80202 and copies of the Incorporation by Reference material at the Air and Radiation Docket and Information Center, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. Copies of the State documents relevant to this action are available for public inspection at the Montana Department of Environmental Quality, Air and Waste Management Bureau, 1520 E. 6th Avenue, Helena, Montana 59620.

FOR FURTHER INFORMATION CONTACT: Kerri Fiedler, EPA, Region VIII, (303) 312–6493 or Laurie Ostrand, EPA, Region VIII, (303) 312–6437.

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