

is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated annual costs of \$100 million or more to either state, local, or tribal governments in the aggregate, or to the private sector. This Federal action allows New Hampshire to implement equivalent alternative requirements to replace pre-existing requirements under Federal law, and imposes no new requirements. Accordingly, no additional costs to state, local, or tribal governments, or to the private sector, result from this action.

#### *F. Submission to Congress and the Comptroller General*

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

#### *G. National Technology Transfer and Advancement Act*

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 ("NTTAA"), Public Law No. 104-113, § 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards. This action does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

#### *H. Petitions for Judicial Review*

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 July 16, 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 63**

Administrative practice and procedure, Air pollution control, Hazardous substances, Intergovernmental relations, Reporting and recordkeeping requirements.

**Authority:** This action is issued under the authority of section 112 of the Clean Air Act, as amended, 42 U.S.C. 7412.

Dated: May 2, 2001.

**Ira W. Leighton,**

*Acting Regional Administrator, EPA—New England.*

Title 40, chapter I, part 63 of the Code of Federal Regulations is amended as follows:

#### **PART 63—[AMENDED]**

1. The authority citation for part 63 continues to read as follows:

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

#### **Subpart E—Approval of State Programs and Delegation of Federal Authorities**

2. Section 63.99 is amended by adding paragraphs (a)(29)(i) and (a)(29)(ii) to read as follows:

##### **§ 63.99 Delegated Federal Authorities**

(a) \* \* \*

(29) New Hampshire.

(i) [Reserved]

(ii) New Hampshire Department of Environmental Services (NH DES) may implement and enforce alternative requirements in the form of title V permit terms and conditions for Groveton Paper Board Inc. of Groveton, NH and Pulp & Paper of America, LLC of Berlin, NH for subpart S—National Emission Standards for Hazardous Air Pollutants from the Pulp and Paper Industry and subpart MM—National Emissions Standards for Hazardous Air Pollutants for Chemical Recovery Combustion Sources at Kraft, Soda, Sulfite and Stand-Alone Semi-chemical

Pulp Mills. This action is contingent upon NH DES including, in title V permits, terms and conditions that are no less stringent than the Federal standard and have been approved by EPA. In addition, the requirement applicable to the source remains the Federal section 112 requirement until EPA has approved the alternative permit terms and conditions and the final title V permit is issued.

\* \* \* \* \*

[FR Doc. 01-12039 Filed 5-15-01; 8:45 am]

**BILLING CODE 6560-50-P**

## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 81**

[WV057-6016; FRL-6979-8]

### **Determination of Attainment of the NAAQS for PM-10 in the Weirton, West Virginia Nonattainment Area**

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA has determined that the Weirton, West Virginia PM-10 Moderate nonattainment area (comprised of the City of Weirton) attained the National Ambient Air Quality Standards (NAAQS) for Particulate Matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM-10) by its applicable December 31, 2000 attainment date. This determination is based upon monitored air quality data for the PM-10 NAAQS during the years 1998-2000. This determination of attainment does not redesignate the Weirton area to attainment for PM-10. The Clean Air Act requires that for an area to be redesignated, five criteria must be satisfied including the submittal of a maintenance plan as a State Implementation Plan (SIP) revision.

**DATES:** This rule is effective on July 2, 2001 without further notice, unless EPA receives adverse written comment by June 15, 2001. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

**ADDRESSES:** Written comments should be mailed to David Arnold, Chief, Air Quality Planning and Information Services Branch, EPA Region III, 3AP21, 1650 Arch Street, Philadelphia, PA 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division,

EPA Region III, 1650 Arch Street, Philadelphia, PA 19103.

**FOR FURTHER INFORMATION CONTACT:**

Ruth E. Knapp, (215) 814-2191, at the EPA Region III address above, or by e-mail at knapp.ruth@epa.gov.

**SUPPLEMENTARY INFORMATION:**

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- II. Basis for EPA's Action
- III. EPA's Final Action
- IV. Administrative Requirements

**I. Background**

*A. Designation and Classification of PM-10 Nonattainment Areas*

On the date of enactment of the 1990 Clean Air Act Amendments (Act), PM-10 areas meeting the qualifications of section 107(d)(4)(B) of the Act were designated nonattainment by operation of law (see generally, 42 U.S.C. 7407(d)(4)(B)). These areas included all former Group I areas identified in 52 FR 29383 (August 7, 1987) and further clarified in 55 FR 45799 (October 31, 1990), and any other areas violating the PM-10 standards prior to January 1, 1989 (many of these areas were identified by footnote 4 in the October 31, 1990 **Federal Register** document). A **Federal Register** document announcing the areas designated nonattainment for PM-10 upon enactment of the Act was published in 56 FR 11101 (March 15, 1991). A subsequent **Federal Register** document correcting some of these areas was published on August 8, 1991 (56 FR 37654). These nonattainment designations and moderate area classifications were codified in 40 CFR part 81 in a **Federal Register** document published on November 6, 1991 (56 FR 56694). All other areas in the nation not designated nonattainment at enactment were designated unclassifiable (see section 107(d)(4)(B)(iii) of the Act). Most of the "Additional" PM-10 nonattainment areas including the Weirton, West Virginia area were subsequently designated in a **Federal Register** document published on December 21, 1993 (58 FR 67334). Pursuant to the Act, these areas have an attainment date of December 31, 2000.

*B. Finding of Attainment*

Once an area is designated nonattainment, section 188 of the Act outlines the process for classification of the area and establishes the area's attainment date. Pursuant to section 188(a), all PM-10 nonattainment areas are initially classified as moderate by operation of law upon designation as nonattainment.

EPA has the responsibility, pursuant to sections 179(c) and 188(b)(2) of the

Act, of determining within 6 months of the applicable attainment date whether PM-10 nonattainment areas have attained the NAAQS. Section 179(c)(1) of the Act provides that these determinations are to be based upon an area's "air quality as of the attainment date" and section 188(b)(2) is consistent with this requirement. EPA will make the determinations as to whether an area's air quality is meeting the PM-10 NAAQS based upon air quality data gathered at monitoring sites in the nonattainment area and entered into the Aerometric Information Retrieval System (AIRS). This data will be reviewed to determine the area's air quality status in accordance with EPA guidance at 40 CFR part 50, appendix K.

Pursuant to appendix K, attainment of the annual PM-10 standard is achieved when the annual arithmetic mean PM-10 concentration is equal to or less than 50  $\mu\text{g}/\text{m}^3$ . Attainment of the 24-hour standard is determined by calculating the expected number of exceedances of the 150  $\mu\text{g}/\text{m}^3$  limit per year. The 24-hour standard is attained when the expected number of exceedances is 1.0 or less. A total of 3 consecutive years of clean air quality data is generally necessary to show attainment of the 24-hour and annual standards for PM-10. A complete year of air quality data, as referred to in 40 CFR part 50, appendix K, is comprised of all 4 calendar quarters with each quarter containing data from at least 75 percent of the scheduled sampling days.

**II. Basis for EPA's Action**

The Weirton, West Virginia area contains four monitoring sites and each site has a continuous monitor which is scheduled to sample PM-10 every day. In addition, one of the monitoring sites has a co-located monitor which samples on a 1 in 6 day sampling schedule. During the years 1998 through 2000, none of the monitoring sites recorded any exceedances of the 24-hour PM-10 standard. The maximum 24-hour concentration was 130  $\mu\text{g}/\text{m}^3$  which occurred in 1998. Lower concentrations occurred in more recent years. The maximum annual concentration was 35.2  $\mu\text{g}/\text{m}^3$  which also occurred in 1998. These maximum concentrations are below the 24-hour standard of 150  $\mu\text{g}/\text{m}^3$  and the annual standard of 50  $\mu\text{g}/\text{m}^3$  respectively. Therefore, zero expected exceedances of the 24-hour standard were predicted and no violations of the annual standard as defined in appendix K occurred during 1998-2000. During most calendar quarters, data collection was over 90% of the scheduled samples and the lowest percentage of quarterly observations from any monitor was

85%. Therefore, sufficient data was obtained in order to make a determination of attainment.

Although the Weirton area has attained the PM-10 NAAQS, it will continue to carry the designation of nonattainment and the classification of moderate in 40 CFR part 81. The area may be redesignated to attainment under section 107(d)(3), if five criteria are met including the submittal of a maintenance plan as a SIP revision. A request to redesignate an area to attainment must be made by a State to EPA. EPA must review the request and required maintenance plan and follow rulemaking procedures to approve or disapprove it.

EPA is publishing this document without prior proposal because the Agency views this determination of attainment based upon monitored air quality data as a noncontroversial amendment and anticipates no adverse comment. However, in the "Proposed Rules" section of today's **Federal Register**, EPA is publishing a separate document that will serve as the proposal to determine that the Weirton, West Virginia area achieved attainment by its attainment date of December 31, 2000 if adverse comments are filed. This document will be effective on July 2, 2001 without further notice unless EPA receives adverse comment by June 15, 2001. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the determination will not take effect. EPA will address all public comments in a subsequent final notice based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

**III. EPA's Final Action**

EPA is making the determination that the Weirton PM-10 nonattainment area achieved attainment by its applicable attainment date of December 31, 2000. This area will continue to carry the designation of nonattainment and classification of moderate under 40 CFR part 81, until the State of West Virginia submits a redesignation request and maintenance plan, and that request and maintenance plan are approved by EPA. This area is eligible to be redesignated to attainment under section 107(d)(3) of the Act, if the five criteria of that section are met.

**IV. Administrative Requirements**

*A. General 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 state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. 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 approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, 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). This rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it 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 rule implementing a federal standard, 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. In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) 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.*).

#### *B. Submission to Congress and the Comptroller General*

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

#### *C. Petitions for Judicial Review*

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action making a determination that the Weirton, West Virginia PM-10 nonattainment area has attained the PM-10 NAAQS by its applicable attainment date must be filed in the United States Court of Appeals for the appropriate circuit by July 16, 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 81**

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

Dated: May 1, 2001.

**William C. Early,**

*Acting Regional Administrator, Region III.*

[FR Doc. 01-12349 Filed 5-15-01; 8:45 am]

**BILLING CODE 6560-50-P**

## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 81**

[FRL-6980-7]

#### **Final Effective Date Modification for the Determination of Nonattainment as of November 15, 1996, and Reclassification of the St. Louis Ozone Nonattainment Area; States of Missouri and Illinois**

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

**ACTION:** Final rulemaking; delay of effective date.

**SUMMARY:** On March 19, 2001, EPA published a final rule entitled "Determination of Nonattainment as of November 15, 1996, and Reclassification of the St. Louis Ozone Nonattainment Area; States of Missouri and Illinois" (66 FR 15578). The effective date for the final rule was May 18, 2001. At the same time, EPA also published its proposal to delay the effective date of the determination and reclassification until June 29, 2001. The 30-day comment period on our March 19, 2001, proposal to extend the effective date has ended and EPA received no adverse comments. Today EPA is finalizing the modification of the effective date of our March 19, 2001, rule from May 18, 2001, until June 29, 2001. Section 553(d) of the Administrative Procedure Act generally provides that rules may not take effect earlier than 30 days after they are published in the **Federal Register**. However, if an Agency identifies a good cause, section 553(d)(3) allows a rule to take effect earlier, provided that the Agency publishes its reasoning in the final rule. EPA is making this action effective immediately because the effective date of the underlying nonattainment determination and reclassification is imminent, and delaying the effective date of this action would negate the purpose of this rule. In addition, EPA finds good cause for making this action effective immediately because it relieves a restriction that would otherwise go into effect.

**DATES:** The effective date of the final rule amending 40 CFR part 81 published at 66 FR 15578, March 19, 2001, is delayed for six weeks, from May 18, 2001, to a new effective date of June 29, 2001. The amendments in this final rule are effective June 29, 2001.

**FOR FURTHER INFORMATION CONTACT:** Lynn M. Slugantz, EPA Region 7, (913) 551-7883; or Edward Doty, EPA Region 5, (312) 886-6057.