

ARIZONA PM<sub>10</sub>—Continued

Designated area	Designation		Classification	
	Date <sup>1</sup>	Type	Date <sup>1</sup>	Type
*	*	*	*	*

<sup>1</sup> This date is November 15, 1990, unless otherwise noted.

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 [FR Doc. 02-16104 Filed 6-25-02; 8:45 am]  
 BILLING CODE 6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Parts 52 and 81**

[AZ-109-0051a; FRL-7233-5]

**Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes: Arizona**

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is approving the moderate area plan and maintenance plan for the Bullhead City area in Arizona and granting a request submitted by the State to redesignate the area from nonattainment to attainment for the National Ambient Air Quality Standards (NAAQS) for particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM<sub>10</sub>). Elsewhere in this **Federal Register**, we are proposing approval and soliciting written comment on this action; if adverse written comments are received, we will withdraw the direct final rule and address the comments received in a new final rule; otherwise no further rulemaking will occur on this approval action.

**DATES:** This direct final rule is effective August 26, 2002, without further notice, unless we receive adverse comments by July 26, 2002. If we receive such comments, we will publish a timely withdrawal in the **Federal Register** to notify the public that this rule will not take effect.

**ADDRESSES:** Please address your comments to Dave Jesson, Air Planning Office (AIR-2), Air Division, U.S. EPA, Region 9, 75 Hawthorne Street, San Francisco, CA 94105-3901. You may inspect and copy the rulemaking docket for this notice at the following location during normal business hours. We may charge you a reasonable fee for copying parts of the docket. Environmental Protection Agency, Region 9, Air

Division, Air Planning Office (AIR-2), 75 Hawthorne Street, San Francisco, CA 94105-3901.

Copies of the SIP materials are also available for inspection at the address listed below: Arizona Department of Environmental Quality, Library, First Floor, 3033 N. Central Avenue, Phoenix, AZ 85012-2809.

**FOR FURTHER INFORMATION CONTACT:** Dave Jesson, Air Planning Office (AIR-2), EPA Region 9, at (415) 972-3957 or: [jesson.david@epa.gov](mailto:jesson.david@epa.gov)

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**I. Summary of Action**

We are approving the moderate area plan and the maintenance plan for the Bullhead City PM<sub>10</sub> nonattainment area ("Bullhead City")<sup>1</sup> and redesignating the area to attainment for the 24-hour and annual PM<sub>10</sub> NAAQS. We are also approving the State of Arizona's request to revise the boundaries of the Bullhead City area by excluding 3 townships. As a result of the redesignation, the excluded townships become part of the State's unclassifiable area for PM<sub>10</sub>, and are not subject to the provisions of the PM<sub>10</sub> maintenance plan for Bullhead City.

On February 7, 2002, the Arizona Department of Environmental Quality (ADEQ) submitted the plan for the Bullhead City PM<sub>10</sub> nonattainment area as well as a request for a boundary change and redesignation of the area from nonattainment to attainment. On May 31, 2002, we found that the submittal met the completeness criteria in 40 CFR part 51, Appendix V, which must be met before formal EPA review.

**II. Introduction**

*A. What National Ambient Air Quality Standards are considered in Today's rulemaking?*

Particulate matter with an aerodynamic diameter of less than 10 micrometers (PM<sub>10</sub>) is the pollutant that is the subject of this action. The NAAQS are safety thresholds for certain ambient air pollutants set to protect public

<sup>1</sup> For the existing definition of the Bullhead City nonattainment area, see 40 CFR 81.303. Bullhead City is a city with a 2000 decennial census count of 33,769, located in western Mohave County across the Colorado River from Nevada.

health and welfare. PM<sub>10</sub> is among the ambient air pollutants for which we have established such a health-based standard.

PM<sub>10</sub> causes adverse health effects by penetrating deep in the lung, aggravating the cardiopulmonary system. Children, the elderly, and people with asthma and heart conditions are the most vulnerable.

On July 1, 1987 (52 FR 24634), we revised the NAAQS for particulate matter with an indicator that includes only those particles with an aerodynamic diameter less than or equal to a nominal 10 micrometers. (See 40 CFR 50.6).

The annual primary PM<sub>10</sub> standard is 50 ug/m<sup>3</sup> as an annual arithmetic mean. The 24-hour PM<sub>10</sub> standard is 150 ug/m<sup>3</sup> with no more than one expected exceedance per year. The secondary PM<sub>10</sub> standards, promulgated to protect against adverse welfare effects, are identical to the primary standards.

#### B. What Is a State Implementation Plan?

The Clean Air Act requires States to attain and maintain ambient air quality equal to or better than the NAAQS. The State's commitments for attaining and maintaining the NAAQS are outlined in the State Implementation Plan (or SIP) for that State. The SIP is a planning document that, when implemented, is designed to ensure the achievement of the NAAQS. Each State currently has a SIP in place, and the Act requires that SIP revisions be made periodically as necessary to provide continued compliance with the standards.

SIPs include, among other things, the following: (1) An inventory of emission sources; (2) statutes and regulations adopted by the State legislature and executive agencies; (3) air quality analyses that include demonstrations that adequate controls are in place to meet the NAAQS; and (4) contingency measures to be undertaken if an area fails to attain the standard or make reasonable progress toward attainment by the required date.

The State must make the SIP available for public review and comment through a public hearing, it must be adopted by the State, and submitted to EPA by the Governor or her designee. EPA takes Federal action on the SIP submittal thus rendering the rules and regulations Federally enforceable. The approved SIP serves as the State's commitment to take actions that will reduce or eliminate air quality problems. Any subsequent revisions to the SIP must go through the formal SIP revision process specified in the Act.

#### C. What Is the Classification of This Area?

Upon enactment of the 1990 Clean Air Act Amendments (Act), PM<sub>10</sub> areas meeting the requirements of either (i) or (ii) of section 107(d)(4)(B) of the Act were designated nonattainment for PM<sub>10</sub> by operation of law and classified "moderate." See generally, 42 U.S.C. 7407(d)(4)(B). These areas included all former Group I PM<sub>10</sub> planning 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 NAAQS for PM<sub>10</sub> 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** notice announcing the areas designated nonattainment for PM<sub>10</sub> upon enactment of the 1990 Amendments, known as "initial" PM<sub>10</sub> nonattainment areas, was published on March 15, 1991 (56 FR 11101). 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).

In January and February of 1991, we notified the Governors of those States which recorded violations of the PM<sub>10</sub> standard after January 1, 1989 that EPA believed that those areas should be redesignated as nonattainment for PM<sub>10</sub>. In September 1992 we proposed that several areas be redesignated nonattainment for PM<sub>10</sub> and took final action on December 21, 1993 (58 FR 67335). Bullhead City was among those areas listed. The effective date of the final action redesignating this area as nonattainment for the PM<sub>10</sub> NAAQS was January 20, 1994.

#### D. What Are the Applicable CAA Provisions for PM<sub>10</sub> Moderate Area Plans?

The air quality planning requirements for moderate PM<sub>10</sub> nonattainment areas are set out in subparts 1 and 4 of title I of the Act. We have issued guidance in a General Preamble describing our views on how we will review SIPs and SIP revisions submitted under title I of the Act, including those containing moderate PM<sub>10</sub> nonattainment area SIP provisions. 57 FR 13498 (April 16, 1992); 57 FR 18070 (April 28, 1992). The General Preamble provides a

detailed discussion of our interpretation of the Title I requirements.

#### 1. Statutory Provisions

States with initial moderate PM<sub>10</sub> nonattainment areas were required to submit, among other things, the following provisions by November 15, 1991:

(a) Provisions to assure that reasonably available control measures (RACM) (including such reductions in emissions from existing sources in the area as may be obtained through the adoption, at a minimum, of reasonably available control technology (RACT)) shall be implemented no later than December 10, 1993;

(b) Either a demonstration (including air quality modeling) that the plan will provide for attainment as expeditiously as practicable but no later than December 31, 1994, or a demonstration that attainment by that date is impracticable;

(c) Pursuant to section 189(c)(1), for plan revisions demonstrating attainment, quantitative milestones which are to be achieved every 3 years and which demonstrate reasonable further progress (RFP) toward attainment by December 31, 1994; and

(d) Provisions to assure that the control requirements applicable to major stationary sources of PM<sub>10</sub> also apply to major stationary sources of PM<sub>10</sub> precursors, except where the Administrator determines that such sources do not contribute significantly to PM<sub>10</sub> levels which exceed the NAAQS in the area.

In addition, States must submit a permit program for the construction of new and modified major stationary sources in 1992 and contingency measures in 1993. See sections 189(a) and 172(c)(9).

#### 2. Clean Data Area Approach

The clean data areas approach applies the clean data policy concept already in place for ozone to selected PM<sub>10</sub> nonattainment areas in order to approve control measures for these areas into the SIP. The approach only applies to PM<sub>10</sub> areas with simple PM<sub>10</sub> source problems, such as residential wood combustion and fugitive dust problems. If an area meets the following requirements, the State will no longer be required to develop an attainment demonstration. The requirements for the approach are:

(a) The area must be attaining the PM<sub>10</sub> NAAQS with the three most recent years of quality assured air quality data.

(b) The State must continue to operate an appropriate PM<sub>10</sub> air quality

monitoring network, in accordance with 40 CFR part 58, in order to verify the attainment status of the area.

(c) The control measures for the area, which were responsible for bringing the area into attainment, must be approved by EPA. EPA would also need to find that the area has adopted RACM/RACT, and make a finding that the area attained the 24-hour and annual PM<sub>10</sub> NAAQS.

(d) An emissions inventory must be completed for the area. In addition to the above requirements for the use of the clean data areas approach, any requirements that are connected solely to designation or classification, such as new source review (NSR) and RACM/RACT, will remain in effect. However, the requirements under CAA section 172(c) for developing attainment demonstrations, RFP demonstrations and contingency measures are waived due to the fact that the areas which are eligible under this approach have already attained the PM<sub>10</sub> NAAQS and have met RFP.

Any sanctions clocks that may be running for an area due to failure to submit, or disapproval of any attainment demonstration, RFP or contingency measure requirements, are stopped. In addition, areas are still required to demonstrate transportation conformity using the build/no-build test, or the no-greater-than-1990 test. 40 CFR 93.119. The emissions budget test would not be required, because the requirements for an attainment demonstration and RFP, which establish the budgets, no longer apply. The applicable tests for general conformity still apply. The use of the clean data areas approach does not constitute a CAA section 107(d) redesignation, but only serves to approve nonattainment area SIPs required under Part D of the CAA.

#### *E. What are the applicable provisions for PM<sub>10</sub> maintenance plans?*

##### 1. Statutory Provisions

CAA section 175A provides the general framework for maintenance plans. The maintenance plan must provide for maintenance of the NAAQS for at least 10 years after redesignation, and must include any additional control measures as may be necessary to ensure such maintenance. In addition, maintenance plans are to contain such contingency provisions as we deem necessary to assure the prompt correction of a violation of the NAAQS that occurs after redesignation. The contingency measures must include, at a minimum, a requirement that the State will implement all control measures

contained in the nonattainment SIP prior to redesignation. Beyond these provisions, however, CAA section 175A does not define the content of a maintenance plan. Our primary guidance on maintenance plans and redesignation requests is a September 4, 1992 memo from John Calcagni, entitled "Procedures for Processing Requests to Redesignate Areas to Attainment" ("Calcagni memo").

##### 2. Limited Maintenance Plan (LMP) Option

On August 9, 2001, EPA issued new guidance on streamlined maintenance plan provisions for certain moderate PM<sub>10</sub> nonattainment areas seeking redesignation to attainment (Memo from Lydia Wegman entitled "Limited Maintenance Plan Option for Moderate PM<sub>10</sub> Nonattainment Areas"). This policy allows maintenance plans for areas having a low risk of future exceedances to omit air quality modeling, future year emission inventories, and some of the standard analyses to determine transportation conformity with the SIP.

To qualify for the LMP option, the area should be maintaining the NAAQS, and the average PM<sub>10</sub> design value for the area, based upon the most recent 5 years of air quality data at all monitors in the area, should be at or below 40 ug/m<sup>3</sup> for the annual and 98 ug/m<sup>3</sup> for the 24 hour PM<sub>10</sub> NAAQS with no violations at any monitor in the nonattainment area. See section IV of the LMP Option memo cited above. The 40 and 98 ug/m<sup>3</sup> limits are margin of safety (MOS) limits for the relevant PM<sub>10</sub> standard for a given area. In addition, the area should expect only limited growth in on-road motor vehicle PM<sub>10</sub> emissions (including fugitive dust) and should have passed a motor vehicle regional emissions analysis test.

As discussed below in Section IV.B.1, the State has demonstrated that the LMP option is appropriate for the Bullhead City nonattainment area.

#### *F. What Are the Applicable Provisions for Redesignation to Attainment for PM<sub>10</sub>?*

The 1990 CAA Amendments revised section 107(d)(3)(E) to provide five specific requirements that an area must meet in order to be redesignated from nonattainment to attainment:

- (1) The area must have attained the applicable NAAQS;
- (2) The area has met all relevant requirements under section 110 and Part D of the Act;
- (3) The area has a fully approved SIP under section 110(k) of the Act;

(4) The air quality improvement must be due to permanent and enforceable reductions; and,

(5) The area must have a fully approved maintenance plan pursuant to section 175A of the Act.

### III. Revision to the Boundary

#### *A. What Boundary Change Has the State Proposed?*

The Bullhead City nonattainment area contains the equivalent of about six townships within more than 200 square miles (40 CFR 81.303). Bullhead City is located in the east-central part. The existing Bullhead City nonattainment area is defined by the following townships:

T21N, R20–21W, excluding Lake Mead National Recreational Area  
T20N, R20–22W  
T19N, R21–22W, excluding the Fort Mohave Indian Reservation

Although the modeling domain of the nonattainment area extends into eastern portions of Clark County, Nevada, the actual nonattainment area only includes portions of Mohave County, Arizona.

The ADEQ has proposed shrinking the area to exclude the following 3 townships (108 square miles) in the east and south of the nonattainment area as defined in 40 CFR 81.303: T21N, R20W; T20N, R20W; and T19N, R21W. As a result, the nonattainment and maintenance area would be:

T21N, R21W, excluding Lake Mead National Recreational Area  
T20N, R21–22W  
T19N, R22W, excluding the Fort Mohave Indian Reservation.

#### *B. Is the Boundary Change Approvable?*

The State's rationale for shrinking the nonattainment area is that the land proposed for exclusion is undisturbed desert terrain, without industrial or commercial activity. A July 2001 field study confirmed this to be the case, and no development is anticipated in the foreseeable future. The majority of the three townships is Federal land managed by the Bureau of Land Management and State land managed by the Arizona State Land Department.

CAA Section 107(d)(3)(D) authorizes states to submit revised designations, and gives us authority to approve such redesignations if they do not interfere with the effectiveness or enforceability of the applicable SIP. Since the State has provided evidence that the excluded area will remain undisturbed desert for the foreseeable future, EPA approves the boundary revision.

#### IV. Review of the Arizona State Submittal Addressing these Provisions

##### A. Moderate Area Plan

###### 1. Did the State meet the CAA procedural provisions?

Prior to adoption by the State, the plan received proper public notice and was the subject of a public hearing in Bullhead City on December 18, 2001.<sup>2</sup>

###### 2. Has the State demonstrated that the area qualifies for the clean data policy?

a. *Based on the past 3 years of air quality data, is the area attaining both the 24-hour and annual PM<sub>10</sub> NAAQS?* An area has attained the 24-hour standard when the average number of expected exceedances per year is less than or equal to one, when averaged over a three-year period. (40 CFR 50.6) To make this determination, three consecutive years of complete ambient air quality data were collected in accordance with Federal requirements (40 CFR part 58, including appendices). On February 15, 2002, EPA issued a determination that the Bullhead City area had attained the PM<sub>10</sub> NAAQS. 67 FR 7082.

The Bullhead City area has one PM<sub>10</sub> monitoring site located at the United States Post Office building at the northeast corner of State Route 95 and 7th Street. There have been no recorded exceedances of either the annual or 24-hour PM<sub>10</sub> NAAQS in the area. The area has attained both the annual and 24-hour PM<sub>10</sub> NAAQS for the past 3 years. Indeed, the last exceedance of the 24-hour NAAQS occurred on May 30, 1991, and the last exceedance of the annual NAAQS was a 52 ug/m<sup>3</sup> concentration for 1989. Thus, the submittal demonstrates that the area has met the ambient attainment requirements for both the 24-hour and annual PM<sub>10</sub> NAAQS.

b. *Is the State continuing to operate an appropriate PM<sub>10</sub> air quality monitoring network?* Demonstrating that an area has attained the PM<sub>10</sub> NAAQS involves submittal of ambient air quality data from an ambient air monitoring network representing peak PM<sub>10</sub> concentrations, which should be stored in the EPA Aerometric Information Retrieval System (AIRS). Once the area has been redesignated, the State will continue to operate an appropriate air quality monitoring network, in accordance with 40 CFR part 58, to verify the attainment status of the area.

<sup>2</sup> In June 1995, ADEQ submitted a PM<sub>10</sub> plan for Bullhead City. That plan, which addressed the moderate SIP provisions, is superseded by the current submittal, which covers both moderate plan and maintenance plan provisions.

The maintenance plan contains provisions for continued operation of air quality monitors that provide such verification. ADEQ has committed to continue operating an appropriate air quality monitoring network, in accordance with 40 CFR part 58, to verify the attainment status of the area. This commitment satisfies the obligation to maintain an adequate monitoring program in the area.

c. *Has EPA approved the control measures responsible for bringing the areas into attainment?* The measures implemented in Bullhead City beginning in 1990 and used for the attainment demonstration are listed below:

1. During active construction projects on State roads, the Arizona Department of Transportation (ADOT) paved intersecting unpaved roads up to the State road alignment.

2. Mohave County paved unpaved parking areas and roadways, and added sidewalks, curbs, and gutters in Davis Camp Park.

3. ADOT paved shoulders and installed curbs along Arizona State Highway 95.

4. Mohave County paved 8.85 miles of roads that were unpaved in 1989. Bullhead City paved more than 12 miles of roads that were unpaved in 1989.

5. Bullhead City paved more than 12 miles of previously unpaved roads in 1989.

6. ADEQ implemented Arizona Administrative Code R18-2-607 that requires control of storage piles to minimize fugitive emissions.

Implementation of these measures helped bring the area into timely attainment of both the 24-hour and annual PM<sub>10</sub> NAAQS, and the measures thus meet the CAA requirement for RACM. Measures 1-5 are fully constructed and are permanent by their very nature. Measure 6 has previously been approved by EPA and remains a Federally enforceable component of the SIP. Therefore, we conclude that the submittal demonstrates that the controls responsible for bringing the area into attainment have been fully carried out or are fully approved SIP regulations.

In addition to these permanent or SIP enforceable controls, the following strategies are also employed in the Bullhead City area: ADOT established contract specifications requiring erosion control plans for State construction projects in PM<sub>10</sub> nonattainment areas per standard specification 104.9; ADOT implemented Encroachments in Highway Rights-of-Way, Rule No. R17-3-712, which authorizes ADOT to issue permits to allow private landowners and tenants egress onto the State Highway

System (in 1988, the section was renumbered, without change, as R17-3-702) but directs mitigation of trackout nuisances; Bullhead City implemented a grading ordinance requiring control of dust during grading and excavation and requiring that property be left in a condition that prevents dust from arising; and smoke management plan requirements were implemented by the Forest Service, Bureau of Land Management, and Arizona Department of State Lands, in cooperation with ADEQ. These supplemental strategies contributed still further fugitive dust emission reductions and public health protection. Continued implementation of the measures will help ensure that the Bullhead City area maintains the 24-hour and annual PM<sub>10</sub> NAAQS.

###### 3. Do the emissions inventories meet CAA provisions?

The Bullhead City plan includes emission inventories for 1999 to show emission levels in a recent, representative year during which there were no violations of the PM<sub>10</sub> standards. This inventory is summarized in Table IV-1, while Table IV-4 presents an inventory of industrial sources, all of which emit less than 3 tons per year of PM<sub>10</sub>. This inventory is consistent with our most recent guidance on emission inventories for nonattainment areas, and reflects the latest information available, including 2000 census data.<sup>3</sup> We approve the emissions inventory under CAA section 172(c)(3) as current, accurate, and complete.

###### 4. Do the plans meet the CAA provisions for RACM and RACT?

The measures listed above in Section IV.A.2.c. reflect effective control for an important emissions category in the Bullhead City area: reentrained dust from traffic on paved and unpaved roads. These measures, along with the cessation of a singular construction project more than 10 years ago, were implemented expeditiously and have proven sufficient to prevent violations of the NAAQS over the past 10 years. We therefore conclude that the controls reflect RACM and we approve the plan as meeting the RACM provisions of CAA Section 189(a)(1)(C).

CAA Section 189(e) requires RACT provisions for gaseous precursors of PM<sub>10</sub> except where EPA determines that such sources do not contribute

<sup>3</sup> PM<sub>10</sub> Emission Inventory Requirements, EPA-450/2-93, USEPA 1993. Emissions factors were generally derived using methodologies from the *Procedures Document for National Emission Inventory, Criteria Air Pollutants 1985-1999* (NEI Procedures), USEPA 2001.

significantly to PM<sub>10</sub> levels exceeding the standard. There are no major stationary sources in the nonattainment area, and total emissions associated with all industrial sources account for only 0.18 percent of PM<sub>10</sub> emissions in 1999. For this reason and because the historic violations of the PM<sub>10</sub> NAAQS were the direct result of massive highway construction activities in the late 1980's, no sources within the Bullhead City area are subject to the RACT requirement, either with respect to primary or secondary PM<sub>10</sub> emissions.

5. Are the CAA provisions for new source review satisfied?

For the Bullhead City nonattainment area, ADEQ administers the preconstruction review and permitting provisions of Arizona Administrative Code, Title 18, Chapter 2, Articles 1, 3, 4, and 5. All new major sources and modifications to existing major sources are subject to the new source review (NSR) and prevention of significant deterioration (PSD) requirements of these rules. We have not yet fully approved the State's NSR rules but, for major sources and modifications of PM<sub>10</sub> emissions, we have delegated to Arizona the authority to administer the PSD program.

Section 172(c)(5) requires NSR permits for the construction and operation of new and modified major stationary sources anywhere in nonattainment areas. We have determined that areas being redesignated from nonattainment to attainment do not need to comply with the requirement that an NSR program be approved prior to redesignation

provided that the area demonstrates maintenance of the standard without part D nonattainment NSR in effect. The rationale for this decision is described in a memorandum from Mary Nichols dated October 14, 1994 ("Part D New Source Review (part D NSR) Requirements for Areas Requesting Redesignation to Attainment"). We have determined that the ADEQ maintenance demonstration for Bullhead City does not rely on nonattainment NSR and, therefore, the State need not have a fully approved nonattainment NSR program prior to approval of the redesignation request. The ADEQ's PSD program at 40 CFR 52.21 will become effective in the area with respect to PM<sub>10</sub> upon redesignation of the area to attainment, pursuant to the delegation agreement between EPA and ADEQ dated March 12, 1999.

B. Maintenance Plan

1. Has the State demonstrated that the area qualifies for the LMP option?

Section II.E. of the plan discusses how the area meets each of the LMP option criteria for use of this option.

First, the area should be attaining the NAAQS. Table III-2 of the plan summarizes quality assured ambient data showing that the Bullhead City area has continued to meet both the 24-hour and annual PM<sub>10</sub> NAAQS for the period 1996-2000.

Second, the design values for the past 5 years must be at or below the margin of safety levels identified in the LMP option. The annual average PM<sub>10</sub> design value for the area from 1996 through 2000 data is 17 ug/m<sup>3</sup>, and the 24-hour average design value is 79 ug/m<sup>3</sup>, both

of which are below the MOS limits of 40 and 98 ug/m<sup>3</sup>, respectively.

Third, the area must meet the motor vehicle regional emissions analysis test in the LMP option. The calculated value is 18 ug/m<sup>3</sup> for the annual average PM<sub>10</sub> standard, which is less than the 40 ug/m<sup>3</sup> MOS limit for annual, and the calculated value is 84 ug/m<sup>3</sup> for the 24-hour average PM<sub>10</sub> standard, which is less than the 98 ug/m<sup>3</sup> MOS limit.

Therefore, the State has shown that the area qualifies for the streamlined maintenance plan provisions under the LMP option. We have concluded in Sections IV.A. that the plan submittal meets the moderate area plan provisions for emissions inventories, permanent and enforceable control measures, and maintenance of adequate monitoring. There is one remaining maintenance plan provision under the LMP option not previously discussed: contingency measures.

2. Does the plan meet the CAA provisions for contingency measures?

The maintenance plan must include contingency control measures which will go into effect automatically to correct any future violation of the NAAQS. These provisions must include a requirement that the State will implement all measures contained in the nonattainment area SIP. The August 9, 2000 LMP option memo states that the contingency measures do not have to be fully adopted at the time of redesignation.

ADEQ has included 9 contingency measures in the maintenance plan (see table below entitled "Bullhead City Area Contingency Measures").

BULLHEAD CITY AREA CONTINGENCY MEASURES

Contingency measures	Implementing entity
Review of Bullhead City grading ordinance to determine if additional action is needed (Bullhead City Zoning Regulation, Chapter 15.40 Grading [September 1998]).	Bullhead City.
Pave unpaved roads located in the PM <sub>10</sub> maintenance area .....	Bullhead City and/or Mohave County.
Pave additional unpaved parking areas in Davis Camp Park (South Beach parking areas) .....	Mohave County.
Continuation of standards for the installation and maintenance of landscaping and screening (Bullhead City Zoning Regulation, Chapter 17.48, Landscaping and Screening Regulations).	Bullhead City.
Continuation of cleanup of roadways after rainstorms .....	Mohave County.
Continuation of the requirement for all commercial establishments to pave parking lots (Mohave County Zoning Regulations, Section 26 Off-Street Parking Standards).	Mohave County.
Continuation of Smoke Management Plan—State and Federal land managers conducting prescribed burning must register with ADEQ for proposed burning activities—Arizona Administrative Code (A.A.C) R-18-2-Article 15 (Forest & Range Management Burns).	U.S. Forest Service, U.S. Bureau of Land Management, Arizona State Land Department, ADEQ.
Review of the requirement for dust control measures for material storage piles to determine if additional action is needed (A.A.C. R-18-2-607).	ADEQ.

The State also committed to determine whether or not violations have been recorded within 6 months of the close of each calendar year, and to review and determine the appropriate

contingency measure(s) by the end of the same calendar year. Finally, the State committed to implement the selected contingency measure(s) within 1 year of determining that a violation

has occurred. We conclude that these measures and commitments meet the contingency measure provision of CAA Section 175A(d).

### C. Redesignation Requests

1. Has Bullhead City attained the 24-hour and annual PM<sub>10</sub> NAAQS?

The area has attained the 24-hour standard when the average number of expected exceedances per year is less than or equal to one, when averaged over a three-year period. (40 CFR 50.6) To make this determination, three consecutive years of complete ambient air quality data were collected in accordance with Federal requirements (40 CFR part 58, including appendices).

As discussed above, there have been no recorded exceedances of either the annual or 24-hour PM<sub>10</sub> NAAQS in the area in the past 3 years. The area has attained both the annual and 24-hour PM<sub>10</sub> NAAQS for the past 3 years.

2. Has the area met all relevant requirements under section 110 and Part D of the Act?

The Calcagni memo directs States to meet all of the applicable section 110 and part D planning requirements for redesignation purposes. EPA interprets the Act to require State adoption and EPA approval of the applicable programs under section 110 and part D that were due prior to the submittal of a redesignation request, before EPA may approve a redesignation request.

Section 110(a)(2) of the Act contains general requirements for nonattainment plans. These requirements include, but are not limited to, submittal of a SIP that has been adopted by the State after reasonable notice and public hearing, provisions for establishment and operation of appropriate apparatus, methods, systems, and procedures necessary to monitor ambient air quality, implementation of a permit program, provisions for Part C—Prevention of Significant Deterioration (PSD) and Part D—New Source Review (NSR) permit programs, criteria for stationary source emission control measures, monitoring and reporting, provisions for modeling, and provisions for public and local agency participation.

Part D includes additional provisions for nonattainment areas, listed generally in CAA section 172(c) and specifically for PM<sub>10</sub> in sections 188–9. These additional Part D provisions include: implementation of RACM as expeditiously as practicable, reasonable further progress, emissions inventories, and quantification of growth allowances (if the State elects to establish such allowances). See the General Preamble for further explanation of these requirements.

For purposes of redesignation, the Arizona SIP was reviewed to ensure that

all requirements under the Act were satisfied. The Arizona SIP was approved under section 110 of the Act as satisfying all applicable section 110 and Part D provisions. These approvals are codified in 40 CFR 52.123. We are approving the SIP with respect to the special Part D provisions for PM<sub>10</sub> nonattainment areas (CAA sections 188–9) in Section IV.A. above.

3. Does the Bullhead City Area have a fully approved SIP under section 110(k) of the Act?

We are approving in today's action the moderate area and maintenance plan for the Bullhead City Area, and confirming that the SIP meets other applicable provisions of the CAA.

4. Has the State shown that the air quality improvement in the area is permanent and enforceable?

The submittal shows that the improvements in air quality were not due to temporary economic downturn or unusually favorable meteorology (p. 14). On the contrary, economic growth has continued over the past 10 years since the area attained the NAAQS, and the area has experienced the full range of weather conditions in that period. As discussed above, attainment is the result of the cessation of unusual construction activities and the establishment of permanent and enforceable controls on fugitive dust emissions.

5. Does the area have a fully approved maintenance plan pursuant to section 175A of the Act?

We are fully approving the maintenance plan, as allowed by the LMP guidance, in Section IV.B. above.

#### D. Conformity

The transportation conformity rule and the general conformity rule apply to nonattainment areas and attainment areas with maintenance plans. Both rules provide that conformity can be demonstrated by showing that the expected emissions from planned actions are consistent with the emissions budget for the area.

##### 1. Transportation Conformity

Under the limited maintenance plan option, emissions budgets are treated as essentially not constraining for the length of the maintenance period because it is unreasonable to expect that qualifying areas would experience so much growth in that period that a NAAQS violation would result.

While areas with maintenance plans approved under the limited maintenance plan option are not subject to the budget test, the areas remain

subject to other transportation conformity requirements of 40 CFR part 93, subpart A. Thus, the metropolitan planning organization (MPO) in the area or the State will still need to document and ensure that: (1) Transportation plans and projects provide for timely implementation of SIP transportation control measures (TCMs) in accordance with 40 CFR 93.113; (2) transportation plans and projects comply with the fiscal constraint element per 40 CFR 93.108; (3) the MPO's interagency consultation procedures meet applicable requirements of 40 CFR 93.105; (4) conformity of transportation plans is determined no less frequently than every three years, and conformity of plan amendments and transportation projects is demonstrated in accordance with the timing requirements specified in 40 CFR 93.104; (5) the latest planning assumptions and emissions model are used as set forth in 40 CFR 93.110 and 40 CFR 93.111; (6) projects do not cause or contribute to any new localized carbon monoxide or particulate matter violations, in accordance with procedures specified in 40 CFR 93.123; and (7) project sponsors and/or operators provide written commitments as specified in 40 CFR 93.125.

The adequacy review period for these SIP submissions is concurrent with the public comment period on this direct final rule. Because limited maintenance plans do not contain budgets, the adequacy review period for these maintenance plans serves to allow the public to comment on whether limited maintenance is appropriate for these areas. Interested parties may comment on the adequacy and approval of the limited maintenance plans by submitting their comments on the proposed rule published concurrently with this direct final rule.

Our action on the limited maintenance plans for these areas will also be announced on EPA's conformity Web site: <http://www.epa.gov/oms/traq>. Once there, click on the "Conformity" button, then look for "Adequacy Review of SIP Submissions for Conformity."

##### 2. General Conformity

For Federal actions which are required to address the specific requirements of the general conformity rule, one set of requirements applies particularly to ensuring that emissions from the action will not cause or contribute to new violations of the NAAQS, exacerbate current violations, or delay timely attainment. One way that this requirement can be met is to demonstrate that "the total of direct and indirect emissions from the action (or portion thereof) is determined and

documented by the State agency primarily responsible for the applicable SIP to result in a level of emissions which, together with all other emissions in the nonattainment area, would not exceed the emissions budgets specified in the applicable SIP." 40 CFR 93.158(a)(5)(i)(A).

The decision about whether to include specific allocations of allowable emissions increases to sources is one made by the State and local air quality agencies. Such emissions budgets are unlike and not to be confused with those used in transportation conformity. Emissions budgets in transportation conformity are required to limit and restrain emissions. Emissions budgets in general conformity allow increases in emissions up to specified levels.

ADEQ has not chosen to include any specific emissions allocations for Federal projects that would be subject to the provisions of general conformity.

#### V. Final Action

We are approving the boundary revision, the moderate area plan, and the maintenance plan for the Bullhead City Area, and we are redesignating the area from nonattainment to attainment for the 24-hour and annual PM<sub>10</sub> NAAQS. We are publishing this action without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comments. However, in the proposed rules section of this **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the State plan and redesignate the area if relevant adverse comments are filed. This rule will be effective August 26, 2002, without further notice unless relevant adverse comments are received by July 26, 2002. If we receive such comments, this action will be withdrawn before the effective date. All public comments received will then be addressed in a subsequent final rule based on the proposed action. We will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective August 26, 2002.

#### V. 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. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May

22, 2001). 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 tribal implications because it will 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). This action also does not have Federalism implications because it does 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). This action 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, "Protection of Children from Environmental Health Risks and Safety Risks" (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. 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. section 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. section 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 August 26, 2002. 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

##### 40 CFR Part 52

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

##### 40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated: June 6, 2002.

**Laura Yoshii,**

*Acting Regional Administrator, Region IX.*

Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

#### PART 52—[AMENDED]

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

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

**Subpart D—Arizona**

2. Section 52.120 is amended by adding paragraph (c)(103) to read as follows:

**§ 52.120 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

(103) The following plan was submitted on February 7, 2002, by the Governor's designee.

(i) Incorporation by reference.

(A) Arizona Department of Environmental Quality.

(1) Bullhead City Moderate Area PM<sub>10</sub> Maintenance Plan and Request for Redesignation to Attainment, adopted on February 7, 2002.

\* \* \* \* \*

**PART 81—[AMENDED]**

1. The authority citation for part 81 continues to read as follows:

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

2. In § 81.303 the PM<sub>10</sub> table is amended by revising the entry for the Mohave County (part) to read as follows:

**§ 81.303 Arizona.**

\* \* \* \* \*

ARIZONA—PM<sub>10</sub>

Designated area	Designation		Classification	
	Date <sup>1</sup>	Type	Date <sup>1</sup>	Type
Mohave County (part): Bullhead City: T21N, R21W, excluding Lake Mead National Recreation Area: T20N, R21–22W; T19N, R22W excluding Fort Mohave Indian Reservation.	August 26, 2002	Attainment.		

<sup>1</sup> This date is November 15, 1990, unless otherwise noted.

\* \* \* \* \*

[FR Doc. 02–16143 Filed 6–25–02; 8:45 am]

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 271**

[FRL–7237–2]

**Wisconsin: Final Authorization of State Hazardous Waste Management Program Revision**

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

**ACTION:** Final rule.

**SUMMARY:** The EPA is granting Wisconsin final authorization of revisions to their hazardous waste program under the Resource Conservation and Recovery Act (RCRA). The Agency published a proposed rule on March 1, 2002 at 67 FR 9427 and provided for public comment. The public comment period ended on April 1, 2002. We received two comments, addressed below. The Agency had also published an immediate final rule on March 1, 2002, granting Wisconsin authorization for the revisions to their RCRA Program, subject to public comment; but withdrew that immediate final rule on April 22, 2002, so that it could respond to the comments before the rule went into effect. EPA is authorizing the State's changes through this final action. After reviewing the comments, we hereby determine that Wisconsin's hazardous waste program

revisions satisfies all requirements necessary to qualify for final authorization. No further opportunity for comment will be provided.

**EFFECTIVE DATE:** Final authorization for the revisions to Wisconsin's hazardous waste management program shall be effective on June 26, 2002.

**FOR FURTHER INFORMATION CONTACT:** Ms. Jean Gromnicki, Wisconsin Regulatory Specialist, U.S. Environmental Protection Agency, Waste, Pesticides and Toxics Division (DM–7J), 77 West Jackson Boulevard, Chicago, Illinois 60604, phone number: (312) 886–6162; or Ms. Patricia Chabot, Wisconsin Department of Natural Resources, 101 North Webster, Madison, Wisconsin, 53707, phone: (608) 264–6015.

**A. Why Are Revisions to State Programs Necessary?**

States which have received final authorization from EPA under RCRA section 3006(b), 42 U.S.C. 6926(b), must maintain a hazardous waste program that is equivalent to, consistent with and no less stringent than the Federal Program. As the Federal program changes, States must change their programs and ask EPA to authorize the changes. Changes to State programs may be necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, States must change their programs because of changes to EPA's regulations in 40 Code of Federal Regulations (CFR) parts 124, 260 through 266, 268, 270, 273 and 279.

**B. What Were the Comments and Responses to EPA's Proposal?**

A commenter from the State of Washington submitted a comment alleging that EPA: (1) Should have hosted a public hearing; and (2) should have reviewed Wisconsin Chapter NR 538 on land application of nonhazardous waste. Noting that RCRA covers both solid and hazardous waste management, the commenter asks EPA to "include a review of Chapter NR 538 for consistency with Wisconsin's statutes prior to approval of Wisconsin's application for final RCRA authorization." For the reasons discussed below, this authorization action is not the appropriate forum for these comments.

*1. Public Hearing*

EPA is authorizing Wisconsin for a revision to its program, and is not required to hold a hearing for a revision. Wisconsin, which received final authorization for its RCRA program on January 31, 1986, is applying for a revision to its already authorized program to reflect revisions that have been made to the Federal RCRA Subtitle C program. The regulations governing review of program revisions at 40 CFR part 271 do not require a hearing for authorization of revisions. On March 4, 1986, EPA promulgated amendments to 40 CFR 271.21 that eliminated public hearing requirements for revisions. In the preamble, the Agency discussed this change:

As discussed in the proposal, the new procedures do not require public