

the ambient air restricted), Table 1 (Ambient Air Quality Standards) was revised to reflect the 2015 ozone NAAQS of 0.070 parts per million. But the revision further states that “[t]he standard is met when the 3-year average of the annual fourth-highest daily maximum 8-hour average concentration at an ambient air quality monitoring site

is less than or equal to 0.075 ppm.” The reference to .075 ppm is erroneous. The EPA understands that North Dakota is currently addressing this error and plans to submit a revised version of Table 1 to the EPA for approval in the future. Accordingly, we are taking no

action on the revision to 33.1–15–02–07, Table 1 in this rulemaking.

### III. Proposed Action

In this action, the EPA is proposing to approve SIP amendments to North Dakota’s Air Pollution Control Rules, shown in Table 1, submitted by the State of North Dakota on May 2, 2019.

TABLE 1—LIST OF NORTH DAKOTA AMENDMENTS THAT THE EPA IS PROPOSING TO APPROVE

Amended sections in the May 2, 2019 submittal proposed for approval

33.1–15–14–02; 33.1–15–15–01.2.

### IV. Consideration of Section 110(l) of the CAA

Under section 110(l) of the CAA, the EPA cannot approve a SIP revision if the revision would interfere with any applicable requirements concerning attainment and reasonable further progress (RFP) toward attainment of the NAAQS, or any other applicable requirement of the Act. In addition, section 110(l) requires that each revision to an implementation plan submitted by a state shall be adopted by the state after reasonable notice and public hearing. The North Dakota SIP revisions that the EPA proposes to approve do not interfere with any applicable requirements of the Act. The revisions to North Dakota’s Control of Air Pollution regulations submitted on May 2, 2019, ensure that the State’s PSD program is in compliance with federal requirements. Therefore, CAA section 110(l) requirements are satisfied.

### V. Incorporation by Reference

The EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference the amendments described in section III of this proposed action. The EPA has made, and will continue to make, these materials generally available through [www.regulations.gov](http://www.regulations.gov) and at the EPA Region 8 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

### VI. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA’s role is to approve state choices, provided that they meet the criteria of

the CAA. Accordingly, this action merely proposes to approve state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using

practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not proposed to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. The rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Particulate matter, Sulfur oxides.

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

Dated: March 9, 2020.

**Gregory Sopkin,**

*Regional Administrator, Region 8.*

[FR Doc. 2020–05673 Filed 3–19–20; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA–R08–OAR–2019–0690; FRL–10006–48–Region 8]

### Approval and Promulgation of Air Quality Implementation Plans; State of Montana; Columbia Falls, Kalispell and Libby PM<sub>10</sub> Nonattainment Area Limited Maintenance Plan and Redesignation Request

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

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to fully approve three Limited Maintenance Plans (LMPs), submitted by the State of Montana to the EPA on July 23, 2019, for the Columbia Falls, Kalispell and

Libby Moderate nonattainment areas (NAAs) for particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM<sub>10</sub>) and concurrently redesignate the NAAs to attainment of the 24-hour PM<sub>10</sub> National Ambient Air Quality Standard (NAAQS). In order to approve the LMPs and redesignations, the EPA is proposing to determine that the Kalispell and Libby NAAs have attained the 1987 24-hour PM<sub>10</sub> NAAQS of 150 µg/m<sup>3</sup>. This determination is based upon monitored air quality data for the PM<sub>10</sub> NAAQS during the years 2016–2018. The EPA is also proposing to approve the Kalispell, Columbia Falls, and Libby LMPs as meeting the appropriate transportation conformity requirements.

**DATES:** Written comments must be received on or before April 20, 2020.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–R08–OAR–2019–0690 at <http://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from [www.regulations.gov](http://www.regulations.gov). The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/submitting-epa-dockets>.

**Docket:** All documents in the docket are listed in the [www.regulations.gov](http://www.regulations.gov) index. Although listed in the index, some information is not publicly available, *e.g.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in [www.regulations.gov](http://www.regulations.gov) or in hard copy at the Air and Radiation Division, U.S. Environmental Protection Agency (EPA), Region 8, 1595 Wynkoop Street,

Denver, Colorado 80202–1129. The EPA requests that if at all possible, you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view the hard copy of the docket. You may view the hard copy of the docket Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Kate Gregory, Air and Radiation Division, U.S. Environmental Protection Agency (EPA), Region 8, Mail Code 8P–ARD–QP, 1595 Wynkoop Street, Denver, Colorado 80202–1129, (303) 312–6175, [gregory.kate@epa.gov](mailto:gregory.kate@epa.gov).

**SUPPLEMENTARY INFORMATION:**

Throughout this document wherever “we,” “us,” or “our” is used, we mean the EPA.

**I. Background**

*A. Description of the Columbia Falls NAA*

The Columbia Falls NAA is one of three NAAs in Flathead County, is rectangularly shaped, and generally encompasses the downtown portion of Columbia Falls and the nearby surrounding areas. Columbia Falls and was originally designated as a Group I area on August 7, 1987, meaning it was likely to violate the PM<sub>10</sub> NAAQS, and was subsequently classified as a Moderate NAA for the 1987 24-hour PM<sub>10</sub> NAAQS on November 6, 1991. *See* 56 FR 56694. States containing initial Moderate PM<sub>10</sub> NAAs were required to submit, by November 15, 1991, a Moderate NAA State Implementation Plan (SIP) that, among other requirements, implemented Reasonably Available Control Measures (RACM) by December 10, 1993, and demonstrated whether it was practicable to attain the PM<sub>10</sub> NAAQS by December 31, 1994. *See generally* 57 FR 13498 (April 16, 1992); *see also* 57 FR 18070 (April 28, 1992).

The State of Montana submitted an initial PM<sub>10</sub> SIP to the EPA on May 6, 1992, and subsequent submissions on August 26, 1994 and July 18, 1995. The State of Montana’s SIP for the Columbia Falls Moderate NAA included, among other things: A comprehensive emissions inventory; RACM; a demonstration that attainment of the PM<sub>10</sub> NAAQS would be achieved in Columbia Falls by December 31, 1994; Reasonable Further Progress (RFP) requirements; and control measures that satisfy the contingency measures requirement of section 172(c)(9) of the CAA. The EPA fully approved the Columbia Falls NAA PM<sub>10</sub> attainment plan on March 19, 1996 (61 FR 11153).

*B. Description of the Libby NAA*

The Libby PM<sub>10</sub> NAA is an irregularly shaped portion of Lincoln County, comprising of the city of Libby, and the surrounding communities. The area was originally designated as a Group I area on August 7, 1987, meaning it was likely to violate the PM<sub>10</sub> NAAQS, and was subsequently classified as a Moderate NAA for the 1987 24-hour PM<sub>10</sub> NAAQS on November 6, 1991. *See* 56 FR 56694.

The State of Montana submitted an initial PM<sub>10</sub> SIP to the EPA on November 25, 1991, with revisions and corrections on May 24, 1993 and June 3, 1994. The State of Montana’s SIP for the Libby Moderate PM<sub>10</sub> NAA included, among other things: A comprehensive emissions inventory; RACM; a demonstration that attainment of the PM<sub>10</sub> NAAQS would be achieved in Libby by December 31, 1994; RFP requirements; and control measures that satisfy the contingency measures requirement of section 172(c)(9) of the CAA. The EPA approved the Libby NAA PM<sub>10</sub> attainment plan, with the exception of the contingency plan, on August 30, 1994 (59 FR 44627). Revisions to the contingency plan were submitted by Montana on March 15, 1995 and subsequently approved on September 30, 1996 (61 FR 51074).

*C. Description of the Kalispell NAA*

The Kalispell NAA is one of three NAAs in Flathead County. It is irregularly shaped and generally encompasses the City of Kalispell and the nearby surrounding areas, including the unincorporated community of Evergreen. Kalispell was originally designated as a Group I area on August 7, 1987, meaning it was likely to violate the PM<sub>10</sub> NAAQS, and was subsequently classified as a Moderate NAA for the 1987 24-hour PM<sub>10</sub> NAAQS on November 6, 1991. *See* 56 FR 56694.

The State of Montana submitted an initial PM<sub>10</sub> SIP to the EPA on November 25, 1991, and submitted three additional submittals between 1991 and 1994. The State of Montana’s SIP for the Kalispell Moderate NAA included, among other things: A comprehensive emissions inventory; RACM; a demonstration that attainment of the PM<sub>10</sub> NAAQS would be achieved in Kalispell by December 31, 1994; RFP requirements; and control measures that satisfy the contingency measures requirement of section 172(c)(9) of the CAA. The EPA fully approved the Kalispell NAA PM<sub>10</sub> attainment plan on March 19, 1996 (61 FR 11153).

## II. Requirements for Redesignation

### A. CAA Requirements for Redesignation of NAAs

NAAs can be redesignated to attainment after the area has measured air quality data showing it has attained the NAAQS and when certain planning requirements are met. Section 107(d)(3)(E) of the CAA, and the General Preamble to Title I provide the criteria for redesignation. See 57 FR 13498 (April 16, 1992). These criteria are further clarified in a policy and guidance memorandum from John Calcagni, Director, Air Quality Management Division, EPA Office of Air Quality Planning and Standards dated September 4, 1992, "Procedures for Processing Requests to Redesignate Areas to Attainment."<sup>1</sup> The criteria for redesignation are:

(1) The Administrator has determined that the area has attained the applicable NAAQS;

(2) The Administrator has fully approved the applicable SIP for the area under section 110(k) of the CAA;

(3) The state containing the area has met all requirements applicable to the area under section 110 and part D of the CAA;

(4) The Administrator has determined that the improvement in air quality is due to permanent and enforceable reductions in emissions; and

(5) The Administrator has fully approved a maintenance plan for the area as meeting the requirements of section 175A of the CAA.

### B. The LMP Option for PM<sub>10</sub> NAAs

On August 9, 2001, the EPA issued guidance on streamlined maintenance plan provisions for certain moderate PM<sub>10</sub> NAAs seeking redesignation to attainment (Memo from Lydia Wegman, Director, Air Quality Standards and Strategies Division, entitled "Limited Maintenance Plan Option for Moderate PM<sub>10</sub> Nonattainment Areas," (hereafter the LMP Option memo)).<sup>2</sup> The LMP Option memo contains a statistical demonstration to show that areas meeting certain air quality criteria will, with a high degree of probability, maintain the standard 10 years into the future. Thus, the EPA has already provided the maintenance demonstration for areas meeting the criteria outlined in the LMP Option memo. It follows that future year emission inventories for these areas, and some of the standard analyses to

determine transportation conformity with the SIP are no longer necessary.

To qualify for the LMP Option, the area should have attained the 1987 24-hour PM<sub>10</sub> NAAQS, based upon the most recent 5 years of air quality data at all monitors in the area, and the 24-hour design value should be at or below the Critical Design Value (CDV). The CDV is a calculated design value that indicates that the area has a low probability (1 in 10) of exceeding the NAAQS in the future. For the purposes of qualifying for the LMP option, a presumptive CDV of 98 µg/m<sup>3</sup> is most often employed, but an area may elect to use a site-specific CDV should the average design value be above 98 µg/m<sup>3</sup>, while demonstrating that the area has a low probability of exceeding the NAAQS in the future. The annual PM<sub>10</sub> standard was effectively revoked on December 18, 2006 (71 FR 61143), and as such will not be discussed as a requirement for qualifying for the LMP option. 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. The LMP Option memo also identifies core provisions that must be included in the LMP. These provisions include an attainment year emissions inventory, assurance of continued operation of an EPA-approved air quality monitoring network, and contingency provisions.

### C. Conformity Under the LMP Option

The transportation conformity rule (40 CFR parts 51 and 93) and the general conformity rule (40 CFR parts 51 and 93) apply to NAAs and maintenance areas covered by an approved maintenance plan. Under either conformity rule, an acceptable method of demonstrating that a federal action conforms to the applicable SIP is to demonstrate that expected emissions from the planned action are consistent with the emissions budget for the area.

While the EPA's LMP Option does not exempt an area from the need to affirm conformity, it explains that the area may demonstrate conformity without submitting an emissions budget. Under the LMP Option, emissions budgets are treated as essentially not constraining for the length of the maintenance period because it is unreasonable to expect that the qualifying areas would experience so much growth in that period that a

violation of the PM<sub>10</sub> NAAQS would result. For transportation conformity purposes, the EPA would conclude that emissions in these areas need not be capped for the maintenance period; and therefore, a regional emissions analysis would not be required. Similarly, federal actions subject to the general conformity rule could be considered to satisfy the "budget test" specified in 40 CFR 93.158(a)(5)(i)(A) for the same reasons that the budgets are essentially considered not limited.

## III. Review of Montana's Submittal Addressing the Requirements for Redesignation and Limited Maintenance Plans

### A. Have the Columbia Falls, Kalispell and Libby NAAs attained the applicable NAAQS?

States must demonstrate that an area has attained the 24-hour PM<sub>10</sub> NAAQS through analysis of ambient air quality data from an ambient air monitoring network representing peak PM<sub>10</sub> concentrations. The data should be stored in the EPA Air Quality System (AQS) database. On January 31, 2011, the EPA determined that the Columbia Falls NAA attained the PM<sub>10</sub> NAAQS (76 FR 5280). Today, the EPA is proposing to determine that the Libby and Kalispell NAAs have attained the PM<sub>10</sub> NAAQS based on monitoring data from calendar years 2016–2018. The 24-hour standard is attained when the expected number of days with levels above 150 µg/m<sup>3</sup> (averaged over a 3-year period) is less than or equal to one. 40 CFR 50.6(a). Three consecutive years of air quality data are generally necessary to show attainment of the 24-hour and annual standards for PM<sub>10</sub>. See 40 CFR part 50, appendix K. A complete year of air quality data, as referred to in 40 CFR part 50, appendix K, is comprised of all four calendar quarters with each quarter containing data from at least 75% of the scheduled sampling days.

The Kalispell and Libby NAAs each have one State and Local Air Monitoring Station (SLAMS) monitor operated by the Montana Department of Environmental Quality (MDEQ). Tables 1 and 2 summarize the PM<sub>10</sub> data collected from 2014–2018 for the Kalispell and Libby NAAs, respectively. The EPA deems the data collected from these monitors valid, and the data have been submitted by the MDEQ to be included in AQS.

<sup>1</sup> The "Procedures for Processing Requests to Redesignate Areas to Attainment" (Calcagni memo) outlines the criteria for redesignation. The Calcagni memo can be found at [https://www.epa.gov/sites/production/files/2016-03/documents/calcagni\\_](https://www.epa.gov/sites/production/files/2016-03/documents/calcagni_)

[memo\\_-\\_procedures\\_for\\_processing\\_requests\\_to\\_redesignate\\_areas\\_to\\_attainment\\_090492.pdf](https://www.epa.gov/sites/production/files/2016-03/documents/calcagni_memo_-_procedures_for_processing_requests_to_redesignate_areas_to_attainment_090492.pdf).

<sup>2</sup> The "Limited Maintenance Plan Option for Moderate PM<sub>10</sub> Nonattainment Areas" outlines the

criteria for development of a PM<sub>10</sub> limited maintenance plan and can be found at <https://www.epa.gov/sites/production/files/2016-06/documents/2001lmp-pm10.pdf>.

TABLE 1—SUMMARY OF MAXIMUM 24-HOUR PM<sub>10</sub> CONCENTRATIONS (μG/M<sup>3</sup>) FOR KALISPELL 2014–2018

Based on data from Flathead Valley (Soccer Complex) Site, AQS Identification Number (30–029–0049)				
Year	Maximum concentration	2nd maximum concentration	Number of exceedances	Monitoring site
2014 .....	108	89	0	Flathead Valley Soccer Complex.
2015 <sup>1</sup> .....	146	139	0	Flathead Valley Soccer Complex.
2016 .....	87	84	0	Flathead Valley Soccer Complex.
2017 <sup>1</sup> .....	154	131	0	Flathead Valley Soccer Complex.
2018 .....	131	99	0	Flathead Valley Soccer Complex.

<sup>1</sup> EPA-concurred exceptional events were are excluded from this year.

TABLE 2—SUMMARY OF MAXIMUM 24-HOUR PM<sub>10</sub> CONCENTRATIONS (μG/M<sup>3</sup>) FOR LIBBY 2014–2018

Based on data from Flathead Valley (Soccer Complex) Site, AQS Identification Number (30–029–0049)				
Year	Maximum concentration	2nd maximum concentration	Number of exceedances	Monitoring site
2014 .....	47	45	0	Courthouse Annex.
2015 <sup>1</sup> .....	143	113	0	Courthouse Annex.
2016 .....	58	57	0	Courthouse Annex.
2017 <sup>1</sup> .....	134	104	0	Courthouse Annex.
2018 .....	112	106	0	Courthouse Annex.

<sup>1</sup> EPA-concurred exceptional events were are excluded from this year.

The PM<sub>10</sub> concentrations reported at the Kalispell and Libby monitoring sites showed no measured exceedances of the 24-hour PM<sub>10</sub> NAAQS from 2014–2018, and as such, the EPA proposes to determine that the Kalispell and Libby Moderate NAAs have attained the standard for the 24-hour PM<sub>10</sub> NAAQS.

*B. Do the Columbia Falls, Kalispell, and Libby NAA have a fully approved SIP under CAA Section 110(k)?*

In order to qualify for redesignation, the SIP for the area must be fully approved under CAA section 110(k) and must satisfy all requirements that apply to the area. Section 189 of the CAA contains requirements and milestones for all initial Moderate NAA SIPs including: (1) Provisions to assure that 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; (2) A demonstration (including air quality modeling) that the plan will provide for attainment as expeditiously as practicable by no later than December 31, 1994, or, where the state is seeking an extension of the attainment date under section 188(e), a demonstration that attainment by December 31, 1994, is impracticable and that the plan provides for attainment by the most expeditious alternative date practicable (CAA sections 189(a)(1)(A)); (3) Quantitative milestones which are to be achieved every 3 years and which demonstrate RFP toward attainment by

December 31, 1994, (CAA sections 172(c)(2) and 189(c)); and (4) Contingency measures to be implemented if the area fails to make RFP or attain by its attainment deadline. These contingency measures are to take effect without further action by the state or the EPA. (CAA section 172(c)(9)).

The EPA approved the Columbia Falls, Kalispell and Libby Moderate area plans on March 19, 1996, March 19, 1996, and August 30, 1994, respectively; and approved the revised contingency plan for Libby on September 30, 1996. Each plan included RACM, an attainment demonstration, emissions inventory, quantitative milestones, and control and contingency measure requirements. As such, the areas have fully approved NAA SIPs under section 110(k) of the CAA.

*C. Has the State met all applicable requirements under Section 110 and Part D of the CAA?*

Section 107(d)(3)(E) of the CAA requires that a state containing a NAA must meet all applicable requirements under section 110 and Part D of the CAA for an area to be redesignated to attainment. The EPA interprets this to mean that the state must meet all requirements that applied to the area prior to, and at the time of, the submission of a complete redesignation request. The following is a summary of how Montana meets these requirements.

#### 1. CAA Section 110 Requirements

Section 110(a)(2) of the CAA contains general requirements for state

implementation 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. See the General Preamble for further explanation of these requirements. 57 FR 13498 (April 16, 1992).

For purposes of redesignation, the EPA's review of the Montana SIP shows that the State has satisfied all requirements under section 110(a)(2) of the CAA. Further, in 40 CFR 52.1372, the EPA has approved Montana's plan for the attainment and maintenance of the national standards under section 110.

#### 2. Part D Requirements

Part D contains general requirements applicable to all areas designated nonattainment. The general requirements are followed by a series of subparts specific to each pollutant. All PM<sub>10</sub> NAAs must meet the general provisions of Subpart 1 and the specific PM<sub>10</sub> provisions in Subpart 4,

“Additional Provisions for Particulate Matter Nonattainment Areas.” The following paragraphs discuss these requirements as they apply to the Columbia Falls, Kalispell and Libby NAAs.

### 3. Subpart 1, Section 172(c)

Subpart 1, section 172(c) contains general requirements for NAA plans. A thorough discussion of these requirements may be found in the General Preamble. *See* 57 FR 13538 (April 16, 1992). CAA section 172(c)(2) requires nonattainment plans to provide for RFP. Section 171(1) of the CAA defines RFP as “such annual incremental reductions in emissions of the relevant air pollutant as are required by this part (part D of title I) or may reasonably be required by the Administrator for the purpose of ensuring attainment of the applicable national ambient air quality standard by the applicable date.” Since the EPA is proposing to determine that the Kalispell and Libby NAAs are in attainment of the PM<sub>10</sub> NAAQS, we believe that no further showing of RFP or quantitative milestones is necessary.

### 4. Section 172(c)(3)—Emissions Inventory Section

Section 172(c)(3) of the CAA requires a comprehensive, accurate, current inventory of actual emissions from all sources in the Columbia Falls, Kalispell and Libby PM<sub>10</sub> NAAs. Montana included an emissions inventory for the calendar year 2014 with July 23, 2019 submittal of the LMP for the NAAs. The LMP Option memo states that an attainment inventory should represent emissions during the same 5-year period associated with the air quality data used to determine that the area meets the applicability requirements of the LMP option. The Columbia Falls, Kalispell and Libby LMPs include an emission inventory from 2014, representative of the 2013–2017 5-year period which served as the 5-year period relied upon in the LMPs as meeting the air quality data requirements of the LMP option memo.

### 5. Section 172(c)(5)—NSR

The 1990 CAA Amendments contained revisions to the NSR program requirements for the construction and operation of new and modified major stationary sources located in NAA. The CAA requires states to amend their SIPs to reflect these revisions, but does not require submittal of this element along with the other SIP elements. The CAA established June 30, 1992, as the submittal date for the revised NSR programs (section 189 of the CAA).

Montana has a fully approved nonattainment NSR program, most recently approved on August 30, 1995 (60 FR 45051). Montana also has a fully approved PSD program, most recently approved on August 30, 1995 (60 FR 45051). Upon the effective date of redesignation of an area from nonattainment to attainment, the requirements of the Part D NSR program will be replaced by the PSD program and the maintenance area NSR program.

### 6. Section 172(c)(7)—Compliance With CAA Section 110(a)(2): Air Quality Monitoring Requirements

Once an area is redesignated, the state must continue to operate an appropriate air monitoring network in accordance with 40 CFR part 58 to verify attainment status of the area. The State of Montana operates one PM<sub>10</sub> SLAMS in each of the NAAs. The Flathead Valley, Kalispell and Libby monitoring sites meet EPA SLAMS network design and siting requirements set forth at 40 CFR part 58, appendices D and E. In section 3.4 of each of the LMPs that we are proposing to approve, the State commits to continued operation of the monitoring network.

### 7. Section 172(c)(9)—Contingency Measures

The CAA requires that contingency measures take effect if the area fails to meet RFP requirements or fails to attain the NAAQS by the applicable attainment date. Since the Columbia Falls, Kalispell and Libby NAAs have attained the 1987 24-hour PM<sub>10</sub> NAAQS, contingency measures are no longer required under section 172(c)(9) of the CAA. However, contingency provisions are required for maintenance plans under section 175(a)(d). We describe the contingency provisions Montana provided in the LMP section below.

### 8. Part D Subpart 4

Part D subpart 4, section 189(a), (c) and (e) requirements apply to any Moderate NAA area before the area can be redesignated to attainment. The requirements which were applicable prior to the submission of the request to redesignate the area must be fully approved into the SIP before redesignating the area to attainment. These requirements include: (a) Provisions to assure that RACM was implemented by December 10, 1993; (b) Either a demonstration that the plan provided for attainment as expeditiously as practicable but not later than December 31, 1994, or a demonstration that attainment by that date was impracticable; (c) Quantitative

milestones which were achieved every 3 years and which demonstrate 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 determined that such sources do not contribute significantly to PM<sub>10</sub> levels which exceed the NAAQS in the area. These provisions were fully approved into the SIP upon the EPA’s approval of the PM<sub>10</sub> Moderate area plan for the Columbia Falls, Kalispell and Libby NAAs on March 19, 1996, March 19, 1996, and August 30, 1994, respectively.

### *D. Has the state demonstrated that the air quality improvement is due to permanent and enforceable reductions?*

The state must be able to reasonably attribute the improvement in air quality to permanent and enforceable emission reductions. In making this showing, the state must demonstrate that air quality improvements are the result of actual enforceable emission reductions. This showing should consider emission rates, production capacities, and other related information. The analysis should assume that sources are operating at permitted levels (or historic peak levels) unless evidence is presented that such an assumption is unrealistic. Permanent and enforceable control measures in the Columbia Falls, Kalispell and Libby NAA SIPs include RACM. Emission sources in the three NAAs have been implementing RACM for at least 10 years.

Areas that qualify for the LMP will meet the NAAQS, even under worst case meteorological conditions. Under the LMP option, the maintenance demonstration is presumed to be satisfied if an area meets the qualifying criteria. Thus, by qualifying for the LMP, Montana has demonstrated that the air quality improvements in the Columbia Falls, Kalispell and Libby NAAs are the result of permanent emission reductions and not a result of either economic trends or meteorology. A description of the LMP qualifying criteria and how the Columbia Falls, Kalispell and Libby areas meet these criteria is provided in the following section.

### 1. Permanent and Enforceable Emission Reductions in the Columbia Falls NAA

Emissions in the Columbia Falls NAA have been reduced 87.8% since 1990. The primary controls incorporated into the SIP were rules specifying the allowed material to be placed on roads and parking lots for sanding and chip

sealing; rules specifying street sweeping and flushing requirements during the winter and summer months to reduce fugitive road dust; rules requiring the paving of new roads within the Columbia Falls Control District; and permit requirements on the Plum Creek sawmill, plywood and MDF facilities in Columbia Falls. Fugitive road dust comprised nearly 51% of the uncontrolled emissions when the area was designated nonattainment, and emissions from the Plum Creek facility accounted for 44% of the area's uncontrolled emissions. Based on the 2014 NEI, current fugitive road dust emissions are less than 8% of their 1990 levels and current emissions from the Plum Creek facility are 14% of their uncontrolled emissions.

## 2. Permanent and Enforceable Emission Reductions in the Kalispell NAA

Emissions in the Kalispell NAA have been reduced 74.0% since 1998. The primary controls incorporated into the SIP were rules specifying the allowed material to be placed on roads and parking lots for sanding and chip sealing; rules specifying street sweeping and flushing requirements during the winter and summer months to reduce fugitive road dust; rules requiring the paving of new roads within the Kalispell Control District; and permit requirements on 11 stationary sources in the NAA.

## 3. Permanent and Enforceable Emission Reductions in the Libby NAA

Emissions in the Libby NAA have been reduced 90.2% since 1989. The primary controls incorporated into the SIP were air pollution control rules in Chapter 1, Subchapters 1 through 4, addressing solid fuel burning devices, reentrained road dust control, and outdoor burning regulations. Additionally, the control plan accounted for industrial emission reductions through permit revisions. These revisions required that RACT be applied to the Champion International boilers which resulted in derating Boiler #7, reducing allowable emissions from Boiler #8, and adding new controls on Boiler #9. Changing economic conditions, ultimately saw the closure of the wood products facility after a previous sale of the facility to Stimson

Lumber Company. The source specific limits on the Champion International boilers remain in the SIP.

### *E. Do the areas have a fully approved maintenance plan pursuant to Section 175A of the CAA?*

In this action, we are proposing to approve the LMPs for the Columbia Falls, Kalispell and Libby NAAs in accordance with the principles outlined in the LMP Option.

### *F. Has the state demonstrated that the Columbia Falls, Kalispell, and Libby NAAs qualify for the LMP option?*

The LMP Option memo outlines the requirements for an area to qualify for the LMP Option. First, the area should be attaining the NAAQS. As stated above in Section III.A., the EPA has determined that the Columbia Falls, Kalispell and Libby NAAs are attaining the PM<sub>10</sub> NAAQS.

Second, the average design value (ADV) for the past 5 years of monitoring data (2014–2018) must be at or below the CDV. As noted in Section II.B., the CDV is a margin of safety value and is the value at which an area has been determined to have a 1 in 10 probability of exceeding the NAAQS. The LMP Option memo provides two methods for review of monitoring data for the purpose of qualifying for the LMP option. The first method is a comparison of a site's ADV with the CDV of 98 µg/m<sup>3</sup> for the 24-hour PM<sub>10</sub> NAAQS. A second method that applies to the 24-hour PM<sub>10</sub> NAAQS is the calculation of a site-specific CDV with the ADV for the past 5 years of monitoring data. Tables 3, 4 and 5 outline the design values for the years 2014–2018, and present the ADV.

Tables 6, 7 and 8 summarize the wildfire related events that were excluded from the calculated design values in Tables 3, 4 and 5, respectively. Tables 6, 7 and 8 include all regionally concurred exceptional events, as well as values between 98 µg/m<sup>3</sup> and 155 µg/m<sup>3</sup>, which were treated in a manner analogous to exceedance data under the Exceptional Events Rule (EER) for the purpose of determining the LMP option eligibility.<sup>3</sup> The values between 98 µg/

<sup>3</sup> Update on Application of the Exceptional Events Rule to the PM<sub>10</sub> Limited Maintenance Plan

m<sup>3</sup> and 155 µg/m<sup>3</sup> will remain in the Air Quality System (AQS) database for use in calculating DV's for every purpose besides determining LMP eligibility.<sup>3</sup> The EER can be found in 40 CFR 50.14 and 40 CFR 51.930, and outlines the requirements for the treatment of monitored air quality data that has been heavily influenced by an exceptional event. 40 CFR 50.1(j) defines an exceptional event as an event which affects air quality, is not reasonably controllable or preventable, is an event caused by human activity that is unlikely to recur at a particular location or a natural event and is determined by the Administrator in accordance with 40 CFR 50.14 to be an exceptional event. Exceptional events do not include stagnation of air masses or meteorological inversions, meteorological events involving high temperatures or lack of precipitation, or air pollution relating to source noncompliance. 40 CFR 50.14(b) states that the EPA shall exclude data from use in determinations of exceedances and NAAQS violations where a state demonstrates to the EPA's satisfaction that an exceptional event caused a specific air pollution concentration in excess of one or more NAAQS at a particular air quality monitoring location and otherwise satisfies the requirements of section 50.14. Tables 6, 7 and 8 below include some exceptional events not formally concurred on by EPA. These exceptional events were excluded by EPA in accordance with the LMP guidance (see footnote 3). We have concurred that these values can be excluded for the sole purpose of determining PM<sub>10</sub> Limited Maintenance Plan (LMP) eligibility and supporting documentation of EPA's concurrence with the wildfire related events can be found in the docket.<sup>4</sup>

Option, US EPA, William T. Harnett, Director, Air Quality Policy Division, OAQPS, May 7, 2009.

<sup>4</sup> February 8, 2019 letter to MDEQ, Re: Exceptional Events Requests Regarding Exceedances of the 24-hour PM<sub>10</sub> NAAQS and the LMP Eligibility Threshold at Montana Monitoring Sites with PM<sub>10</sub> Nonattainment Areas; and November 1, 2018 letter to MDEQ, Re: Request for EPA concurrence on exceptional event claims for fine (PM<sub>2.5</sub>) and coarse (PM<sub>10</sub>) particulate matter data impacted by wildfires in 2015 and 2016.

TABLE 3—SUMMARY OF 24-HOUR PM<sub>10</sub> DESIGN VALUES (μg/M<sup>3</sup>) FOR COLUMBIA FALLS 2014–2018

Based on data from Flathead Valley (Soccer Complex.) Site, AQS Identification Number (30–029–0049)

Design value years	Design concentration (μg/m <sup>3</sup> )	Monitoring site
2014–2016 .....	60	Flathead Valley Soccer Complex.
2015–2017 .....	66	Flathead Valley Soccer Complex.
2016–2018 .....	74	Flathead Valley Soccer Complex.
Average Design Concentration (Of Most Recent 3 Design Concentrations) .....		67

TABLE 4—SUMMARY OF 24-HOUR PM<sub>10</sub> DESIGN VALUES (μg/M<sup>3</sup>) FOR KALISPELL 2014–2018

Based on data from Flathead Electric. Site, AQS Identification Number (30–029–0047)

Design value years	Design concentration (μg/m <sup>3</sup> )	Monitoring site
2014–2016 .....	89	Flathead Electric.
2015–2017 .....	88	Flathead Electric.
2016–2018 .....	90	Flathead Electric.
Average Design Concentration (Of Most Recent 3 Design Concentrations) .....		89

TABLE 5—SUMMARY OF 24-HOUR PM<sub>10</sub> DESIGN VALUES (μg/M<sup>3</sup>) FOR LIBBY 2014–2018

Based on data from Libby Courthouse Annex. Site, AQS Identification Number (30–053–0018)

Design value years	Design concentration (μg/m <sup>3</sup> )	Monitoring site
2014–2016 <sup>1</sup> .....	90	Courthouse Annex.
2015–2017 <sup>1</sup> .....	92	Courthouse Annex.
2016–2018 .....	95	Courthouse Annex.
Average Design Concentration (Of Most Recent 3 Design Concentrations) .....		92

TABLE 6—24-HOUR PM<sub>10</sub> EVENTS EXCLUDED FROM 2014–2018 COLUMBIA FALLS DESIGN VALUES

Date	24-Hour Value (μg/m <sup>3</sup> )	Monitoring site
8/20/2015 .....	140	Flathead Valley Soccer Complex.
8/21/2015 .....	112	Flathead Valley Soccer Complex.
8/23/2015 .....	112	Flathead Valley Soccer Complex.
8/24/2015 .....	139	Flathead Valley Soccer Complex.
8/25/2015 .....	109	Flathead Valley Soccer Complex.
8/26/2015 .....	112	Flathead Valley Soccer Complex.
8/27/2015 .....	136	Flathead Valley Soccer Complex.
8/28/2017 .....	135	Flathead Valley Soccer Complex.
8/29/2015 .....	138	Flathead Valley Soccer Complex.
9/6/2017 .....	* 182	Flathead Valley Soccer Complex.
9/7/2017 .....	* 228	Flathead Valley Soccer Complex.
9/8/2017 .....	* 225	Flathead Valley Soccer Complex.
9/9/2017 .....	126	Flathead Valley Soccer Complex.
9/13/2017 .....	102	Flathead Valley Soccer Complex.

\* EPA-Concurred Exceptional Event [other exceptional events not formally concurred on by EPA, were excluded by EPA in accordance with the LMP guidance, see footnote 3].

TABLE 7—24-HOUR PM<sub>10</sub> EVENTS EXCLUDED FROM 2014–2018 KALISPELL DESIGN VALUES

Date	24-hour value (μg/m <sup>3</sup> )	Monitoring site
8/20/2015 .....	125	Flathead Electric.
8/21/2015 .....	103	Flathead Electric.
8/24/2015 .....	139	Flathead Electric.
8/26/2015 .....	125	Flathead Electric.
8/27/2015 .....	123	Flathead Electric.

TABLE 7—24-HOUR PM<sub>10</sub> EVENTS EXCLUDED FROM 2014–2018 KALISPELL DESIGN VALUES—Continued

Date	24-hour value ( $\mu\text{g}/\text{m}^3$ )	Monitoring site
8/28/2017 .....	133	Flathead Electric.
8/29/2015 .....	146	Flathead Electric.
9/5/2017 .....	131	Flathead Electric.
9/6/2017 .....	* 171	Flathead Electric.
9/7/2017 .....	* 194	Flathead Electric.
9/8/2017 .....	* 228	Flathead Electric.
9/9/2017 .....	154	Flathead Electric.
9/13/2017 .....	* 158	Flathead Electric.

\* EPA-Concurred Exceptional Event [other events not formally concurred on by EPA, were excluded by EPA in accordance with the LMP guidance, see footnote 3].

TABLE 8—24-HOUR PM<sub>10</sub> EVENTS EXCLUDED FROM 2014–2018 LIBBY DESIGN VALUES

Date	24-hour value ( $\mu\text{g}/\text{m}^3$ )	Monitoring site
8/20/2015 .....	113	Courthouse Annex.
8/24/2015 .....	* 180	Courthouse Annex.
8/25/2015 .....	102	Courthouse Annex.
8/27/2015 .....	109	Courthouse Annex.
8/29/2015 .....	143	Courthouse Annex.
9/5/2017 .....	104	Courthouse Annex.
9/6/2017 .....	101	Courthouse Annex.
9/7/2017 .....	134	Courthouse Annex.
9/8/2017 .....	* 158	Courthouse Annex.

\* EPA-Concurred Exceptional Event [other events not formally concurred on by EPA, were excluded by EPA in accordance with the LMP guidance, see footnote 3].

The ADV for the 24-Hour PM<sub>10</sub> NAAQS for Columbia Falls, Kalispell and Libby, based on data from the SLAMS monitors for the years 2014–2018, are 67  $\mu\text{g}/\text{m}^3$ , 89  $\mu\text{g}/\text{m}^3$ , and 92  $\mu\text{g}/\text{m}^3$ , respectively. These values fall below the presumptive 24-Hour CDV of 98  $\mu\text{g}/\text{m}^3$ , and would all meet the first

threshold for LMP eligibility. However, in the case of both Kalispell and Libby, these areas required the calculation of an area specific CDV in order to pass the motor vehicle regional emissions analysis test, described below and in further detail in the LMP guidance document.<sup>5</sup> Table 9 lists the respective

CDV for each of the NAAs based on data from 2014–2018, utilized for satisfying all the LMP requirements. Calculation of the 2014–2018 CDV for Kalispell and Libby can be found in the supporting documents in the docket.<sup>6</sup>

TABLE 9—CRITICAL DESIGN VALUES USED FOR DETERMINING LMP ELIGIBILITY

PM <sub>10</sub> NAA	24-Hour CDV ( $\mu\text{g}/\text{m}^3$ )	2013–2018 ADV ( $\mu\text{g}/\text{m}^3$ )
Columbia Falls .....	* 98	97
Kalispell .....	124	89
Libby .....	139.9	92

\* Use of presumptive CDV as described in the LMP guidance document.

In addition to having an ADV that is lower than either the presumptive or area specific CDV, in order to qualify for the LMP, the area must meet the motor vehicle regional emissions analysis test in attachment B of the LMP Option memo. Using the methodology outlined in the memo, based on monitoring data for the period 2016–2018, the EPA has determined that the Columbia Falls, Kalispell and Libby NAAs all pass the motor vehicle regional emissions analysis test, with a projected DV of

74.3  $\mu\text{g}/\text{m}^3$ , 109.7  $\mu\text{g}/\text{m}^3$  and 100.3  $\mu\text{g}/\text{m}^3$  after 10 years, respectively, attributable to motor vehicle emission growth. For the calculations used to determine how the Columbia Falls, Kalispell and Libby NAAs passed the motor vehicle regional analysis test, see the supporting documents in the docket.<sup>7</sup>

The monitoring data for the period 2016–2018 shows that Columbia Falls, Kalispell and Libby have attained the 24-hour NAAQS for PM<sub>10</sub>, and the 24-

hour ADV for each of the areas is less than the 24-hour PM<sub>10</sub> presumptive and area-specific CDV. Finally, the areas have met the regional vehicle emissions analysis test. Thus, the Columbia Falls, Kalispell and Libby NAAs qualify for the LMP Option described in the LMP Option memo. The LMP Option memo also indicates that once a state selects the LMP Option and it is in effect, the state will be expected to determine, on an annual basis, that the LMP criteria are still being met. If the state

<sup>5</sup> “Limited Maintenance Plan Option for Moderate PM<sub>10</sub> Nonattainment Areas—Attachment B.”

<sup>6</sup> Memo to file “Critical Design Value Calculations for the Kalispell and Libby PM<sub>10</sub> NAAs.”

<sup>7</sup> See memo to file dated October 24, 2018 titled “Columbia Falls, Kalispell and Libby Motor Vehicle Regional Emissions Analysis.”

determines that the LMP criteria are not being met, it should take action to reduce PM<sub>10</sub> concentrations enough to requalify for the LMP. One possible approach the state could take is to implement contingency measures. Please see section 3.6 of each of the three LMPs for a description of contingency provisions submitted as part of the State's submittal.

*G. Does the state have an approved attainment emissions inventory which can be used to demonstrate attainment of the NAAQS?*

The state's approved attainment plan should include an emissions inventory (attainment inventory) which can be used to demonstrate attainment of the NAAQS. The inventory should represent emissions during the same 5-year period associated with air quality data used to determine whether the area meets the applicability requirements of the LMP Option. The state should review its inventory every 3 years to ensure emissions growth is incorporated in the attainment inventory if necessary. In this instance, Montana completed an attainment year inventory for the attainment year 2014 for all three NAAs. The EPA has reviewed the 2014 emissions inventories and determined that they are current, accurate and complete. In addition, the emissions inventory submitted with the LMP for the calendar year 2014 is representative of the level of emissions during the time period used to calculate the ADV since 2014 is included in the 5-year period used to calculate the design values (2013–2017).

*H. Does the LMP include an Assurance of Continued Operation of an appropriate EPA-approved Air Quality Monitoring Network, in accordance with 40 CFR part 58?*

PM<sub>10</sub> monitoring networks for the Columbia Falls, Kalispell and Libby NAAs have been developed and maintained in accordance with federal siting and design criteria in 40 CFR part 58, appendices D and E and in consultation with the EPA Region 8. In Section 3.4 of the Columbia Falls, Kalispell and Libby LMPs, Montana states that it will continue to operate its monitoring network to meet EPA requirements.

*I. Does the plan meet the CAA requirements for contingency provisions for maintenance plans?*

Section 175A of the CAA states that a maintenance plan must include contingency provisions, as necessary, to promptly correct any violation of the NAAQS which may occur after

redesignation of the area to attainment. As explained in the LMP Option memo, these contingency measures do not have to be fully adopted at the time of redesignation. As noted above, CAA section 175A requirements are distinct from CAA section 172(c)(9) contingency measures. Section 3.6 of the Columbia Falls, Kalispell and Libby LMPs describe a process and timeline to identify and evaluate appropriate contingency measures in the event of a quality assured violation of the PM<sub>10</sub> NAAQS. Upon notification of a PM<sub>10</sub> exceedance in any of the three areas, the MDEQ and the appropriate local government will develop contingency measures designed to prevent or correct a violation of the PM<sub>10</sub> standard. This process will be completed within twelve months of the exceedance notification. Upon violating the PM<sub>10</sub> standard, the MDEQ and local government will determine if the local contingency measures will be adequate to prevent further exceedances or violations. If the agencies determine that local measures will be inadequate, the MDEQ and local government will adopt state-enforceable measures.

The current and proposed contingency provisions in the Columbia Falls, Kalispell and Libby LMPs meet the requirements for contingency provisions as outlined in the LMP Option memo.

*J. Has the state met transportation and general conformity requirements?*

#### 1. Transportation Conformity

Transportation conformity is required by section 176(c) of the CAA. Conformity to a SIP means that transportation activities will not produce new air quality violations, worsen existing violations, or delay timely attainment of the NAAQS (CAA section 176(c)(1)(B)). The EPA's conformity rule at 40 CFR part 93, subpart A requires that transportation plans, programs and projects conform to SIPs and establishes the criteria and procedures for determining whether or not they conform. To effectuate its purpose, the conformity rule typically requires a demonstration that emissions from the applicable Regional Transportation Plan and the Transportation Improvement Program are consistent with the motor vehicle emission budget (MVEB) contained in the control strategy SIP revision or maintenance plan (40 CFR 93.101, 93.118, and 93.124). The EPA notes that a MVEB is usually defined as the level of mobile source emissions of a pollutant relied upon in the attainment or maintenance demonstration to attain

or maintain compliance with the NAAQS in the nonattainment or maintenance areas. MVEBs are, however, treated differently with respect to LMP areas.<sup>8</sup>

Our LMP Option memorandum does not require that MVEBs be identified in the maintenance plan. While the EPA's LMP Option memorandum does not exempt an area from the need to affirm conformity, it explains that the area may demonstrate transportation conformity without identifying and submitting a MVEB. The basis for this provision is that it is unreasonable to expect that an LMP area will experience so much growth during the maintenance period that a violation of the PM<sub>10</sub> NAAQS would result. Therefore, for transportation conformity purposes, the EPA has concluded that mobile source emissions in LMP areas need not be capped, with respect to a MVEB, for the maintenance period and a regional emissions analysis (40 CFR 93.118), for transportation conformity purposes, is also not required.

However, since LMP areas are still maintenance areas, certain aspects will continue to be required for transportation projects located within the Columbia Falls, Kalispell and Libby PM<sub>10</sub> maintenance areas. Specifically, for conformity determinations, projects will have to demonstrate that they are fiscally constrained (40 CFR 93.108) and meet the criteria for consultation (40 CFR 93.105 and 40 CFR 93.112) and timely implementation (as applicable) of Transportation Control Measures (40 CFR 93.113). In addition, projects located within the Columbia Falls, Kalispell and Libby PM<sub>10</sub> LMP areas will be required to be evaluated for potential PM<sub>10</sub> hot-spot issues in order to satisfy the "project level" conformity determination requirements. As appropriate, a project may then need to address the applicable criteria for a PM<sub>10</sub> hot-spot analysis as provided in 40 CFR 93.116 and 40 CFR 93.123.

Finally, our proposed approval of the Columbia Falls, Kalispell and Libby PM<sub>10</sub> LMPs affect future PM<sub>10</sub> project-level transportation conformity determinations as prepared by the Montana Department of Transportation in conjunction with the Federal Highway Administration and the Federal Transit Administration. See 40 CFR 93.100. As such, the EPA is proposing to approve the Columbia Falls, Kalispell and Libby LMPs as meeting the appropriate transportation

<sup>8</sup> Further information concerning the EPA's interpretations regarding MVEBs can be found in the preamble to the EPA's November 24, 1993, transportation conformity rule (see 58 FR 62193–62196).

conformity requirements found in 40 CFR part 93, subpart A.

## 2. General Conformity

Federal actions, other than transportation conformity, that meet specific criteria need to be evaluated with respect to the requirements of 40 CFR part 93, subpart B. The EPA's general conformity rule requirements are designed to ensure that emissions from a federal action will not cause or contribute to new violations of the NAAQS, exacerbate current violations, or delay timely attainment. However, as noted in our LMP Option memorandum and similar to the above discussed transportation conformity provisions, federal actions subject to our general conformity requirements would be considered to satisfy the "budget test," as specified in 40 CFR 93.158(a)(5)(i)(A). As discussed above, the basis for this provision in the LMP Option memorandum is that it is unreasonable to expect that an LMP area will experience so much growth during the maintenance period that a violation of the PM<sub>10</sub> NAAQS would result. Therefore, for purposes of general conformity, a general conformity PM<sub>10</sub> emissions budget does not need to be identified in the maintenance plan, nor submitted, and the emissions from federal agency actions are essentially considered to not be limited.

## IV. The EPA's Proposed Action

For the reasons explained in Section III, we are proposing to approve the LMP for the Columbia Falls, Kalispell and Libby NAAs and the State's request to redesignate the Columbia Falls, Kalispell and Libby NAAs from nonattainment to attainment for the 1987 24-hour PM<sub>10</sub> NAAQS. Additionally, the EPA is proposing to determine that the Kalispell and Libby NAAs have attained the NAAQS for PM<sub>10</sub>. This determination is based upon monitored air quality data for the PM<sub>10</sub> NAAQS during the years 2016–2018. The EPA is proposing to approve the Columbia Falls, Kalispell and Libby LMPs as meeting the appropriate transportation conformity requirements found in 40 CFR part 93, subpart A.

## V. Statutory and Executive Orders Review

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action

merely proposes to approve state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
  - Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
  - Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
  - Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
  - Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4);
  - Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
  - Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
  - Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
  - Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
  - Does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).
- In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the proposed rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

## List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations,

Particulate matter, Reporting and recordkeeping requirements.

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

Dated: March 12, 2020.

**Gregory Sopkin,**

*Regional Administrator, EPA Region 8.*

[FR Doc. 2020–05671 Filed 3–19–20; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Parts 52 and 81

[EPA–R03–OAR–2019–0577; FRL–10006–77–Region 3]

### Air Plan Approval; West Virginia; Redesignation and Maintenance Plan for the West Virginia Portion of the Steubenville Sulfur Dioxide Nonattainment Area

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

**ACTION:** Proposed rule.

**SUMMARY:** In accordance with the Clean Air Act (CAA), the Environmental Protection Agency (EPA) is proposing to redesignate the West Virginia portion of the Steubenville, Ohio–West Virginia multi-state sulfur dioxide (SO<sub>2</sub>) nonattainment area (referred to as the "Steubenville Nonattainment Area" or the "Area") from nonattainment to attainment. EPA is also proposing to approve West Virginia's maintenance plan for its portion of the Steubenville Nonattainment Area. Emissions of SO<sub>2</sub> in the Area have been reduced and ambient SO<sub>2</sub> readings in the nonattainment area are currently well below the 2010 1-hour SO<sub>2</sub> national ambient air quality standard (NAAQS).

**DATES:** Written comments must be received on or before April 20, 2020.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–R03–OAR–2019–0577 at <https://www.regulations.gov> or via email to [spielberger.susan@epa.gov](mailto:spielberger.susan@epa.gov). For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include