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 May 15, 2006. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Nitrogen dioxides, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: February 22, 2006.

Alan J. Steinberg,

Regional Administrator, Region 2.

■ Part 52, 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 FF—New Jersey

■ 2. Section 52.1570 is amended by adding new paragraph (c)(80) to read as follows:

§ 52.1570 Identification of plan.

* * * * *

(c) * * *

(80) Revision to the New Jersey State Implementation Plan (SIP) for ozone concerning the control of nitrogen oxides from the Schering Corporation's CoGEN II cogeneration facility located in Union County submitted by the New Jersey Department of Environmental Protection (NJDEP), dated March 31, 2005.

(i) Incorporation by reference:

(A) Conditions of Approval, Alternative Maximum Emission Rate For NO_X, Schering Corporation, Union, Union County, New Jersey facility identification number 40084 approved March 9, 2005.

[FR Doc. 06–2428 Filed 3–13–06; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA–R09–OAR–2006–0041; FRL–8045–1]

Approval and Promulgation of Implementation Plans; Designation of Areas for Air Quality Planning Purposes; State of Arizona; Particulate Matter of 10 Microns or Less; Finding of Attainment for Yuma Nonattainment Area; Determination Regarding Applicability of Certain Clean Air Act Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action under the Clean Air Act to determine that the Yuma nonattainment area in Arizona has attained the National Ambient Air Quality Standards (NAAQS) for particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM_{10}). This determination is based upon monitored air quality data for the PM_{10} NAAQS during the years 1998–2000. EPA also finds that the Yuma area is currently in attainment of the PM_{10} NAAQS, and based on this finding, EPA is determining that certain Clean Air Act requirements are not applicable for so long as the Yuma area continues to attain the PM_{10} NAAQS.

DATES: This rule is effective on May 15, 2006, without further notice, unless EPA receives adverse comments by April 13, 2006. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit comments, identified by docket number EPA-R09-OAR–2006–0041, by one of the following methods:

(1) Federal eRulemaking portal: *http://www.regulations.gov.* Follow the on-line instructions.

(2) E-mail: *rosen.rebecca@epa.gov.*

(3) Mail or deliver: Rebecca Rosen (AIR–2), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Instructions: All comments will be included in the public docket without change and may be made available online at *http://www.regulations.gov*, including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through the *www.regulations.gov* or e-mail. *www.regulations.gov* is an anonymous access system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send e-mail directly to EPA, your e-mail address will be automatically captured and included as part of the public comment. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

Docket: The index to the docket for this action is available electronically at *http://www.regulations.gov* and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Rebecca Rosen, EPA Region IX, (415) 947–4152, *rosen.rebecca@epa.gov*.

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

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I. Background

A. What National Ambient Air Quality Standards (NAAQS) Are Considered in Today's Finding?

Particulate matter with an aerodynamic diameter of less than or equal to 10 micrometers (PM_{10}) is the subject of this action. The NAAQS are limits for certain ambient air pollutants set by EPA to protect public health and welfare. PM_{10} is among the ambient air

pollutants for which EPA has established a health-based standard.

PM_{10} causes adverse health effects by penetrating deep into the lungs, 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), EPA 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 24-hour primary PM_{10} standard is 150 micrograms per cubic meter $\mu g/m^3$ with no more than one expected exceedance per year. The annual primary PM_{10} standard is 50 $\mu g/m^3$ as an annual arithmetic mean. The secondary PM_{10} standards, promulgated to protect against adverse welfare effects, are identical to the primary standards.

B. What Is the Designation and Classification of This PM_{10} Nonattainment Area?

Upon enactment of the 1990 Clean Air Act Amendments (CAA or ''Act''), PM_{10} areas meeting the requirements of either (i) or (ii) of section 107(d)(4)(B) of the Act were designated nonattainment for PM_{10} by operation of law and classified ''moderate.'' These areas included all former Group I PM_{10} 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_{10} 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_{10} upon enactment of the 1990 Act Amendments, known as ''initial'' PM_{10} 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).

The Yuma planning area was listed by EPA as a Group I area (see 52 FR 29383, August 7, 1987) and was designated nonattainment for PM_{10} by operation of law and classified ''moderate.'' In accordance with section 189(a)(2) of the CAA, Arizona was to submit a state implementation plan (SIP) by November 15, 1991 demonstrating attainment of the PM_{10} standards by December 31, 1994 for the Yuma area.[1]

C. How Do We Make Attainment Determinations?

Pursuant to sections 179(c)(1) and 188(b)(2) of the Act, we have the responsibility of determining within six months of the applicable attainment date whether, based on air quality data, PM_{10} nonattainment areas attained the NAAQS by that date. The ''applicable attainment date'' is December 31, 1994 for areas, such as Yuma, that were designated as ''moderate'' nonattainment for PM_{10} by operation of law under the 1990 Amended Act. Determinations under section 179(c)(1) of the Act are to be based upon an area's ''air quality as of the attainment date.'' Section 188(b)(2) is consistent with this requirement.

Generally, we will determine whether an area's air quality meets the PM_{10} NAAQS for purposes of section 179(c)(1) and 188(b)(2) based upon data gathered at established state and local air monitoring stations (SLAMS) and national air monitoring stations (NAMS) in the nonattainment area and entered into the EPA's Air Quality System (AQS) database. Data entered into the AQS has been determined to meet federal monitoring requirements (see 40 CFR 50.6; 40 CFR part 50, appendix J; 40 CFR part 53; 40 CFR part 58, appendices A and B) and may be used to determine the attainment status of areas. We will also consider air quality data from other air monitoring stations in the nonattainment area provided that the stations meet the federal monitoring requirements for SLAMS. All data are reviewed to determine the area's air quality status in accordance with our guidance at 40 CFR part 50, Appendix K.

Attainment of the annual PM_{10} standard is achieved when the annual arithmetic mean PM_{10} concentration over a three-year period is equal to or less than 50 $\mu g/m^3$. Attainment of the 24-hour standard is determined by calculating the expected number of days in a year with PM_{10} concentrations greater than 150 $\mu g/m^3$. The 24-hour standard is attained when the expected number of days per year with levels above 150 $\mu g/m^3$ (averaged over a three-year period) is less than or equal to one. Three consecutive years of air quality data are necessary to show attainment of the 24-hour and annual standards for PM_{10}. See 40 CFR part 50 and appendix K. A complete year of air quality data, as referred to in 40 CFR part 50 Appendix K, includes all 4 calendar quarters with each quarter containing data from at least 75 percent of the scheduled sampling days.[2]

II. What Is the Basis for EPA's Determination That the Yuma Nonattainment Area Has Attained the PM_{10} NAAQS?

The Yuma PM_{10} nonattainment area is located in the lower Colorado River Valley in the southwestern portion of Yuma County. The PM_{10} nonattainment area consists of 456 square miles, which is roughly eight percent of the land area of Yuma County (5,500 square miles). Yuma County is located in the southwestern portion of Arizona that borders California and Mexico. The cities of Yuma and Somerton are the largest population centers in the Yuma PM_{10} nonattainment area. The city of Yuma, the county seat, is located below the convergence of the Gila and Colorado Rivers on the far western side of the PM_{10} nonattainment area. The city of Somerton is located in the southwestern portion of the PM_{10} nonattainment area. Agriculture is the primary industry in Yuma County. The Arizona Department of Economic Security predicts that Yuma County's population is expected to increase by 37.5 percent from 138,025 in 2000 to 189,783 in 2015.[3] Approximately one-half of the county's year-round population resides in the city of Yuma. During the winter, Yuma County's population increases significantly due to seasonal residents.

The Yuma PM_{10} nonattainment area has one SLAMS monitor operated by the Arizona Department of Environmental Quality (ADEQ). This monitor was located at the Yuma County Juvenile Center in the city of Yuma from 1988 until the second quarter of 2002, after which time it was relocated to the nearby Yuma County Courthouse, which is also located in the city of Yuma. ADEQ measures ambient (24-hour-average) PM_{10} concentrations in Yuma at a frequency of once every six days.

Table 1 summarizes the PM_{10} data collected in Yuma from 1992–2005 and reported by ADEQ to the AQS database. Table 1 also indicates which years had

[1] Arizona submitted a moderate area plan for the Yuma area on November 14, 1991; EPA found this plan to be incomplete on May 14, 1992. Arizona submitted a revised plan for Yuma on July 12, 1994. EPA found the revised plan to be complete but has not taken action on it.

[2] However, as explained in more detail in the following section of this notice, EPA guidelines allow for data substitution only under circumstances where data capture is at least 50 percent but less than 75 percent.

[3] Arizona Department of Economic Security, 2006.

four complete quarters of data (including any allowable data substitution [4]), making the data from that year eligible for use in determining whether the area has attained the PM_{10} NAAQS, if that year is followed by two consecutive years also with four complete quarters of data. As shown in Table 1, no exceedances of the 24-hour PM_{10} NAAQS of 150 μg/m³ were measured in Yuma during the 1992–1994 period and the annual-average PM_{10} concentrations measured during that period were well below the corresponding standard of 50 Fg/m³. However, even with allowable data substitution, the data capture for Yuma was not sufficient for the 1992–1994 period to allow us to make a finding of attainment for the applicable attainment date of December 31, 1994.

TABLE 1.—SUMMARY OF 24 HOUR AND ANNUAL PM_{10} CONCENTRATIONS (μG/M³) FOR YUMA, 1992–2005 [1]

	Year													
	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005
Highest 24-hour-average	62	65	66	75	103	108	112	100	132	[2] 150	125	127	114	86
Annual average	29.0	33.9	37.3	41.5	52.1	42.4	39.7	36.7	[3] 54.3	41.2	51.8	38.1	45.0	30.8
Four complete quarters?	Yes	Yes	No	Yes	Yes	No	Yes	Yes	Yes	No	Yes	Yes	Yes	[4] NA

[1] The data summary in Table 1 includes substituted data and was analyzed according to the ''Guideline on Exceptions to Data Requirements for Determining Attainment of Particulate Matter Standards.'' See footnote 4. The fourth quarter in 1994, the second quarter in 1997, and the first and fourth quarters in 2001 were not eligible for data substitution. The incomplete data from these quarters was included in the calculation of the annual average for each of these years.

[2] The highest measured 24-hour-average concentration in 2001 was 150 μg/m³, which is equal to the 24-hour PM_{10} NAAQS, but which is not considered an ''exceedance.'' Under EPA regulations, an exceedance of the 24-hour-average standard represents concentrations of 155 μg/m³ or greater. See 40 CFR 50, appendix K.

[3] Data substitution results in a conservative estimate of the annual average. See footnote 4. For example, the annual average for 2000 of 54.3 μg/m³ would be reduced to 42.3 μg/m³ if data substition was not used. The method of data substitution was used to calculate annual averages for 1993–1997, 2000–2002, and 2004.

[4] We have received AQS data from ADEQ through September 30, 2005. States are required to report data to AQS on a rolling basis and have until 90 days from the end of a given quarter to submit quality-assured monitoring data into AQS. See 40 CFR 58.28.

NA: Not Applicable.

Like the 1992–1994 period, the series of three-year periods immediately following 1992–1994 also show no exceedances of the PM_{10} NAAQS but an incomplete data set in 1997 prevents us from making an attainment finding until 1998–2000, the first three-year period after the applicable attainment date with sufficient data capture to make an attainment finding consistent with 40 CFR Part 50, Appendix K.

As noted above, the 24-hour PM_{10} standard is attained when the expected number of days per year with levels above 150 μg/m³ (averaged over a three-year period) is less than or equal to one. When we apply data substitution per the above-referenced guideline for the period 1998–2000, we find no exceedances of the 24-hour PM_{10} NAAQS for the 1998–2000 period and thus the expected number of days per year with levels above 150 μg/m³ (averaged over that three-year period) is zero. As such, pursuant to sections 179(c)(1) and 188(b)(2) of the Act, we find that Yuma has attained the 24-hour PM_{10} NAAQS. Since 2000, there is one year (2001) in which four complete quarters of data are not available, but because the data from the most recent three-year period (2002–2004) are complete and show no exceedances,[5] and because the latest available information for 2005 also reveals no exceedances, we conclude that Yuma is currently in attainment of the 24-hour PM_{10} NAAQS.

Also as noted above, attainment of the annual PM_{10} standard is achieved when the annual arithmetic mean PM_{10} concentration over a three-year period is equal to or less than 50 μg/m³. Review of the data for calendar years 1998–2000 reveals an arithmetic average of 43.6 μg/m³. As such, pursuant to sections 179(c)(1) and 188(b)(2) of the Act, we find that Yuma has attained the annual PM_{10} NAAQS. As noted previously, the data set for year 2001 is not complete, but the data from the most recent complete three-year period (2002–2004) show that Yuma is currently in attainment of the annual PM_{10} NAAQS.

III. What Are the Applicable Planning Requirements for the Yuma Nonattainment Area as a Result of EPA's Attainment Determination?

The air quality planning requirements for moderate PM_{10} nonattainment areas, such as the Yuma nonattainment area, are set out in part D, subparts 1 and 4 of title I of the Act. We have issued guidance in a General Preamble [6] describing how we will review SIPs and SIP revisions submitted under title I of the Act, including those containing moderate PM_{10} nonattainment area SIP provisions.

In nonattainment areas where monitored data demonstrates that the NAAQS have already been achieved, EPA has determined that certain requirements of part D, subparts 1 and 2 of title I of the Act (with respect to 1-hour ozone) do not apply. Therefore, we do not require certain submissions for an area that has attained the NAAQS. These include reasonable further progress (RFP) requirements, attainment demonstrations and contingency measures, because these provisions have the purpose of helping achieve attainment of the NAAQS.

[4] The regulatory requirement for data capture in 40 CFR part 50, Appendix K, is 75 percent on a quarterly basis. According to the ''Guideline on Exceptions to Data Requirements for Determining Attainment of Particulate Matter Standards'' (see EPA document 450/4–87–005, April 1987), when data capture is at least 50 percent but less than 75 percent, data may be substituted for the missing data. Per the above-referenced guideline, monitoring data from the same quarter in any one of the years used to determine attainment may be substituted for missing PM_{10} data. The maximum PM_{10} value that was observed in that quarter over the last three years is substituted for missing scheduled sampling days.

[5] On August 18, 2002, ADEQ measured 170 μg/m³, 24-hour-average, at the Yuma monitoring station; however, EPA concurred with ADEQ on the exclusion of this data from design value calculations due to a high wind event that occurred on that date. ADEQ has prepared a Natural Events Action Plan (NEAP) in response to that event. The NEAP includes the development and implementation of Best Available Control Measures (BACM) for anthropogenic PM_{10} sources that contributed to the event.

[6] ''General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990'' (57 FR 13498, April 16, 1992, as supplemented 57 FR 18070, April 28, 1992).

This interpretation of the CAA is known as the Clean Data Policy and is the subject of two EPA memoranda. EPA also finalized the statutory interpretation set forth in the policy in a final rule, 40 CFR 51.918, as part of its ''Final Rule to Implement the 8-hour Ozone National Ambient Air Quality Standard—Phase 2'' (Phase 2 Final Rule). *See* discussion in the preamble to the rule at 70 FR 71612, 71645–46 (November 29, 2005). EPA believes that the legal bases set forth in detail in our Phase 2 Final Rule, our May 10, 1995 memorandum from John S. Seitz, entitled ''Reasonable Further Progress, Attainment Demonstration, and Related Requirements for Ozone Nonattainment Areas Meeting the Ozone National Ambient Air Quality Standard,'' and our December 14, 2004 memorandum from Stephen D. Page entitled ''Clean Data Policy for the Fine Particle National Ambient Air Quality Standards'' are equally pertinent to the interpretation of provisions of subparts 1 and 4 applicable to PM_{10}. Our interpretation that an area that is attaining the standards is relieved of obligations to demonstrate RFP and to provide an attainment demonstration and contingency measures pursuant to part D of the CAA, pertains whether the standard is PM_{10}, ozone or $PM_{2.5}$.[7]

It has been EPA's longstanding interpretation that the general provisions of part D, subpart 1 of the Act (sections 171 and 172) do not require the submission of SIP revisions concerning RFP for areas already attaining the ozone NAAQS because the stated purpose of RFP is to ensure attainment by the applicable date. 57 FR at 13564. EPA believes the same reasoning applies to the PM_{10} provisions of part D, subpart 4. CAA section 189(c)(1), applicable to PM_{10} nonattainment areas, states that revisions shall contain milestones which are to be achieved until the area is redesignated to attainment, such milestones are designed to show reasonable further progress ''toward attainment by the applicable date,'' as defined by section 171. Thus, it is clear that once the area has attained the standard, no further milestones are necessary or meaningful.

With respect to the attainment demonstration requirements of section 189(a)(1)(B) an analogous rationale leads to the same result. CAA section 189(a)(1)(B), requires that the plan provide for ''a demonstration (including air quality modeling) that the [SIP] will provide for attainment by the applicable attainment date * * *'' As with the RFP requirements, if an area is already monitoring attainment of the standards, EPA believes there is no need for an area to make a further submission containing additional measures to achieve attainment. This is also consistent with the interpretation of the section 172(c) requirements provided by EPA in the General Preamble (57 at 13564), the December 14, 2004 memorandum, and the section 182(b) and (c) requirements set forth in the May 10, 1995 memorandum.

Other SIP submission requirements are linked with these attainment demonstration and RFP requirements, and similar reasoning applies to them. These requirements include the contingency measure requirements of section 172(c)(9) and 182(c)(9). We have interpreted the contingency measure requirements of section 172(c)(9) and 182(c)(9) as no longer applying when an area has attained the standard because those ''contingency measures are directed at ensuring RFP and attainment by the applicable date.'' (57 FR at 13564); May 10, 1995 memorandum at 5–6.

Here, as in both our Phase 2 Final Rule and ozone and $PM_{2.5}$ clean data memoranda, we emphasize that the suspension of a requirement to submit SIP revisions concerning these RFP, attainment demonstration, contingency, and other related requirements exists only for as long as a nonattainment area continues to monitor attainment of the standard. If such an area experiences a violation of the NAAQS, the basis for the requirements being suspended would no longer exist. Therefore, should EPA at some future time determine that an area that had clean data, but which has not yet been redesignated as attainment for a NAAQS, has violated the relevant standard, the State would again be required to submit the pertinent CAA requirements for the area.

With respect to the Yuma PM_{10} nonattainment area, based on the finding made herein that Yuma is currently in attainment of the PM_{10} NAAQS and based on the rationale given above, we have determined that the part D, subpart 4 obligations to provide an attainment demonstration pursuant to section 189(a)(1)(B), the RFP provisions established by section 189(c)(1), and the attainment demonstration, RFP and contingency measure provisions of part D, subpart 1 contained in section 172 of the Act are not applicable for so long as the Yuma area continues to monitor attainment of the PM_{10} NAAQS. If measurements of ambient PM_{10} concentrations in the Yuma area reveal a violation of the PM_{10} NAAQS, then the State of Arizona would again be required to submit the pertinent CAA requirements for this nonattainment area.[8]

IV. EPA's Final Action

Based on quality-assured data meeting the requirements of 40 CFR part 50, appendix K, we find that the Yuma, Arizona nonattainment area has attained the PM_{10} NAAQS. This action is a finding of attainment under sections 179(c)(1) and 188(b)(2) of the Clean Air Act and not a redesignation to attainment under CAA section 107(d)(3) because we have not yet approved a maintenance plan meeting the requirements of section 175A of the CAA or determined that the area has met the other CAA requirements for redesignation. The classification and designation status in 40 CFR part 81 will remain moderate nonattainment for this area until such time as Arizona meets the CAA requirements for redesignation of the Yuma PM_{10} area to attainment.

EPA also finds that, because the Yuma ''moderate'' nonattainment area is currently in attainment of the PM_{10} NAAQS, the following CAA requirements are not applicable for so long as the area continues to attain the PM_{10} NAAQS: the part D, subpart 4 obligations to provide an attainment demonstration pursuant to section 189(a)(1)(B), the RFP provisions established by section 189(c)(1), and the attainment demonstration, RFP and contingency measure provisions of part D, subpart 1 contained in section 172 of the Act.

We are publishing this rule without prior proposal because the Agency views this as a noncontroversial action and anticipates no adverse comments. However, in the proposed rules section

[7] Three U.S. Circuit Courts of Appeals have upheld EPA rulemakings applying its interpretation of subparts 1 and 2 with respect to ozone. *Sierra Club* v. *EPA,* 99 F.3d 1551 (10th Cir. 1996); *Sierra Club* v. *EPA,* 375 F.3d 537 (7th Cir. 2004); *Our Children's Earth Foundation* v. *EPA,* No. 04–73032 (9th Cir. June 28, 2005) (memorandum opinion).

[8] Note, however, that on January 17, 2006, EPA published proposed revisions to the NAAQS for particulate matter. *See http://www.epa.gov/fedrgstr/EPA-AIR/2006/January/Day-17/.* The proposed revisions address two categories of particulate matter: fine particles which are particles 2.5 micrometers in diameter and smaller; and ''inhalable coarse'' particles which are particles between 2.5 and 10 micrometers ($PM_{10-2.5}$). Upon finalization of a primary 24-hour standard for $PM_{10-2.5}$, EPA proposes to revoke the current 24-hour PM_{10} standard in all areas of the country except in areas where there is at least one monitor located in an urbanized area (as defined by the U.S. Bureau of the Census) with a minimum population of 100,000 that violates the current 24-hour PM_{10} standard based on the most recent three years of data. In addition, EPA proposes to revoke the current annual PM_{10} standard upon finalization of a primary 24-hour standard for $PM_{10-2.5}$.

of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal should adverse comments be filed. This action will be effective May 15, 2006, without further notice unless the EPA receives relevant adverse comments by April 13, 2006.

If we receive such comments, then we will publish a document withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. We will not institute a second comment period. Parties interested in commenting should do so at this time. If no such comments are received, the public is advised that this rule will be effective on May 15, 2006 and no further action will be taken on the proposed rule.

V. Statutory and Executive Order Reviews

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 makes a determination based on air quality data and does not impose any additional requirements. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule does not impose any additional enforceable duty, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 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 97249,* 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 makes a determination based on air quality data and does not alter the relationship or the distribution of power and responsibilities established in the CAA. 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.

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. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 15, 2006. 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, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

40 CFR Part 81

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

Dated: March 1, 2006.

Wayne Nastri,

Regional Administrator, Region IX.

[FR Doc. 06–2430 Filed 3–13–06; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 2

Frequency Allocations and Radio Treaty Matters

CFR Correction

In Title 47 of the Code of Federal Regulations, parts 0 to 19, revised as of October 1, 2005, on page 474, § 2.1 is corrected by adding the following definitions to read as follows:

§ 2.1 Terms and definitions.

* * * * *

Harmful Interference. Interference which endangers the functioning of a radionavigation service or of other safety services or seriously degrades, obstructs, or repeatedly interrupts a radiocommunication service operating in accordance with [the ITU] Radio Regulations. (CS)

High Altitude Platform Station (HAPS). A station located on an object at an altitude of 20 to 50 km and at a specified, nominal, fixed point relative to the Earth. (RR)

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 060216044–6044–01; I.D. 030906A]

Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 630 of the Gulf of Alaska

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for pollock in Statistical Area 630 of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the B season allowance of the 2006 total allowable catch (TAC) of pollock for Statistical Area 630 of the GOA.