

of Particles from Combustion of Fuel” with an effective date of April 20, 2009; Subchapter 10 “Sulfur in Solid Fuels” with an effective date of April 20, 2009; Subchapter 16 “Control and Prohibition of Air Pollution by Volatile Organic Compounds” with an effective date of April 20, 2009; Subchapter 19 “Control and Prohibition of Air Pollution from Oxides of Nitrogen” with an effective date of July 6, 2009 (including two Administrative Corrections published in

the New Jersey Register on June 15, 2009 and July 6, 2009); and Subchapter 21 “Emission Statements” with an effective date of April 20, 2009.

(ii) Additional information:  
 (A) Letter dated April 21, 2009 from Acting Commissioner Mark N. Mauriello, NJDEP, to George Pavlou, Acting Regional Administrator, EPA Region 2, submitting the SIP revision for Subchapters 4, 8, 10, 16, 19 and 21.  
 (B) Letter dated May 7, 2010 from Director William O’Sullivan, NJDEP, to

Barbara Finazzo, Director, Division of Environmental Planning and Protection, EPA Region 2, submitting supplemental SIP information for Subchapter 19.

■ 3. Section 52.1605 is amended by revising the table entries, under Title 7, Chapter 27: for Subchapters 4, 10, 16, 19, and 21, to read as follows:

**§ 52.1605 EPA-approved New Jersey regulations.**

State regulation	State effective date	EPA approved date	Comments
*	*	*	*
Title 7, Chapter 27:			
*	*	*	*
Subchapter 4, “Control and Prohibition of Particles from Combustion of Fuel.”	April 20, 2009 .....	August 3, 2010 [Insert Federal Register page citation].	
*	*	*	*
Subchapter 10, “Sulfur in Solid Fuels.”	April 20, 2009 .....	August 3, 2010, 2009 [Insert Federal Register page citation].	Notification of “large zone 3 coal conversions” must be provided to EPA (40 CFR 52.1601(b)).
*	*	*	*
Subchapter 16, “Control and Prohibition of Air Pollution by Volatile Organic Compounds.”	April 20, 2009 .....	August 3, 2010 [Insert Federal Register page citation].	
*	*	*	*
Subchapter 19, “Control and Prohibition of Air Pollution from Oxides of Nitrogen.”	July 6, 2009, as corrected on June 15, 2009 and July 6, 2009.	August 3, 2010 [Insert Federal Register page citation].	Subchapter 19 is approved into the SIP except for the following provisions: (1) phased compliance plan through repowering in §§19.21 that allows for implementation beyond May 1, 1999; and (2) phased compliance plan through the use of innovative control technology in §§19.23 that allows for implementation beyond May 1, 1999.
*	*	*	*
Subchapter 21, “Emission Statements.”	April 20, 2009 .....	August 3, 2010 [Insert Federal Register page citation].	Section 7:27–21.3(b)(1) and 7:27–21.3(b)(2) of New Jersey’s Emission Statement rule requires facilities to report on the following pollutants to assist the State in air quality planning needs: hydrochloric acid, hydrazine, methylene chloride, tetrachlorethylene, 1, 1, 1 trichloroethane, carbon dioxide and methane. EPA will not take SIP-related enforcement action on these pollutants.
*	*	*	*

**§ 52.1576 [Reserved]**

■ 4. Section 52.1576 is removed and reserved.  
 [FR Doc. 2010–18887 Filed 8–2–10; 8:45 am]

**BILLING CODE 6560–50–P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 81**

**[EPA–R09–OAR–2010–0590; FRL–9184–6]**

**Determination of Attainment for PM<sub>10</sub> for the Las Vegas Valley Nonattainment Area, NV**

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA has determined that the Las Vegas Valley nonattainment area in Nevada attained the National Ambient Air Quality Standard (NAAQS) for particulate matter with an aerodynamic diameter of less than or equal to a nominal ten micrometers (PM<sub>10</sub>) by the applicable attainment date (December 31, 2006), and that the Las Vegas Valley nonattainment area is currently attaining the standard.

**DATES:** This action is effective on *October 4, 2010* without further notice,

unless EPA receives adverse comment by *September 2, 2010*. If EPA receives adverse comment, we will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect.

**ADDRESSES:** Submit comments, identified by docket number EPA-R09-OAR-2010-0590, by one of the following methods:

1. *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the on-line instructions.

2. *E-mail:* [tax.wienke@epa.gov](mailto:tax.wienke@epa.gov).

3. *Mail or Deliver:* Wienke Tax, Air Planning Office, EPA 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 <http://www.regulations.gov> or e-mail. <http://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 an e-mail directly to EPA, your e-mail address will be automatically captured and included as part of the public comment. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. 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. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

*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:** Wienke Tax at telephone number: (415) 947-4192, e-mail address: [tax.wienke@epa.gov](mailto:tax.wienke@epa.gov), or the above EPA, Region IX address.

**SUPPLEMENTARY INFORMATION:** Throughout this document, wherever "we", "us" or "our" are used, we mean EPA. Information is organized as follows:

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## I. Background

### A. PM<sub>10</sub> NAAQS

The NAAQS are levels for certain ambient air pollutants set by EPA to protect public health and welfare. PM<sub>10</sub>, or particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers, is among the ambient air pollutants for which EPA has established health-based standards. On July 1, 1987 (52 FR 24634), EPA promulgated two primary standards for PM<sub>10</sub>: A 24-hour standard of 150 micrograms per cubic meter (µg/m<sup>3</sup>) and an annual PM<sub>10</sub> standard of 50 µg/m<sup>3</sup>. EPA also promulgated secondary PM<sub>10</sub> standards that were identical to the primary standards.

Effective December 18, 2006, EPA revoked the annual PM<sub>10</sub> standard but retained the 24-hour PM<sub>10</sub> standard. 71 FR 61144 (October 17, 2006). The 24-hour PM<sub>10</sub> standard is attained when the expected number of days per calendar year with a 24-hour concentration in excess of the standard (referred to herein as "exceedance"), as determined in accordance with 40 CFR part 50, appendix K, is equal to or less than one.<sup>1</sup> 40 CFR 50.6 and 40 CFR part 50, appendix K.

<sup>1</sup> An exceedance is defined as a daily value that is above the level of the 24-hour standard (150 µg/m<sup>3</sup>) after rounding to the nearest 10 µg/m<sup>3</sup> (i.e., values ending in 5 or greater are to be rounded up). Thus, a recorded value of 154 µg/m<sup>3</sup> would not be an exceedance since it would be rounded to 150 µg/m<sup>3</sup> whereas a recorded value of 155 µg/m<sup>3</sup> would

### B. Designation and Classification of PM<sub>10</sub> Nonattainment Areas

Areas meeting the requirements of section 107(d)(4)(B) of the Clean Air Act (CAA or the Act) were designated nonattainment for PM<sub>10</sub> by operation of law and classified "moderate" upon enactment of the 1990 Clean Air Act Amendments. *See generally* 42 U.S.C. 7407(d)(4)(B). These areas included all former Group I PM<sub>10</sub> planning areas identified in 52 FR 29383 (August 7, 1987), as further clarified in 55 FR 45799 (October 31, 1990), and any other areas violating the NAAQS for PM<sub>10</sub> prior to January 1, 1989. A **Federal Register** notice announcing the areas designated nonattainment for PM<sub>10</sub> upon enactment of the 1990 Amendments, known as "initial" PM<sub>10</sub> nonattainment areas, was published on March 15, 1991 (56 FR 11101) and a subsequent **Federal Register** document correcting the description of some of these areas was published on August 8, 1991 (56 FR 37654). The Las Vegas Valley<sup>2</sup> was one of these initial moderate PM<sub>10</sub> nonattainment areas.

All initial moderate PM<sub>10</sub> nonattainment areas had the same applicable attainment date of December 31, 1994. States containing initial moderate PM<sub>10</sub> nonattainment areas were required to develop and submit to EPA by November 15, 1991, a state implementation plan (SIP) revision providing for implementation of reasonably available control measures (RACM) for the control of PM<sub>10</sub>, and either a demonstration that the plan would provide for attainment by the applicable attainment date (December 31, 1994) or a demonstration that attainment by such date was impracticable. *See* CAA section 189(a).

A moderate PM<sub>10</sub> area could subsequently be reclassified as "serious" either before the applicable moderate area attainment date if EPA determines the area cannot "practicably" attain the PM<sub>10</sub> NAAQS by this attainment date, or

be an exceedance since it would be rounded to 160 µg/m<sup>3</sup>. *See* 40 CFR part 50, appendix K, section 1.0.

<sup>2</sup> Specifically, the Las Vegas Valley PM<sub>10</sub> nonattainment area is defined by reference to State hydrographic area #212. *See* 40 CFR 81.329. The Las Vegas Valley encompasses roughly 1,500 square miles within Clark County and includes the cities of Las Vegas, North Las Vegas, and Henderson. Roughly two million people reside in Clark County, mostly within Las Vegas Valley. NDEP is the state agency under state law that is responsible for SIP matters for the State of Nevada. Within Clark County, the Clark County Board of Commissioners, acting through the Department of Air Quality and Environmental Management (DAQEM), is empowered under state law to develop air quality plans and to regulate stationary sources within the county with the exception of certain types of power plants, which lie exclusively within the jurisdiction of NDEP.

following the passage of the applicable moderate area attainment date if EPA determines that the area has failed to attain the standard. Effective February 8, 1993, EPA determined that Las Vegas Valley could not “practicably” attain the PM<sub>10</sub> NAAQS by December 31, 1994 (*i.e.*, the applicable attainment date for initial moderate PM<sub>10</sub> nonattainment areas), and reclassified the area as “serious.” See 58 FR 3334 (January 8, 1993). Reclassification of Las Vegas Valley to “serious” triggered deadlines for additional SIP revisions and established a new applicable attainment date of (no later than) December 31, 2001. See CAA section 188(c)(2).

Section 188(e) of the Act authorizes EPA to extend the applicable attainment date for serious PM<sub>10</sub> nonattainment areas under certain circumstances. In 2004, EPA approved the PM<sub>10</sub> attainment plan for Las Vegas Valley and granted the State of Nevada’s request to extend the applicable attainment date from December 31, 2001 to December 31, 2006. See 69 FR 32273 (June 9, 2004).

#### C. How does EPA make attainment determinations?

Section 188(b)(2) of the Act requires EPA to determine within six months of the applicable attainment date whether, based on air quality data, PM<sub>10</sub> nonattainment areas attained the PM<sub>10</sub> NAAQS by that date. Generally, EPA determines whether an area’s air quality is meeting the PM<sub>10</sub> NAAQS based upon complete (minimum of 75 percent of scheduled PM<sub>10</sub> samples recorded), quality-assured 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 Air Quality System (AQS) database. Data from air monitors operated by State/local/tribal agencies in compliance with EPA monitoring requirements must be submitted to AQS. EPA relies primarily on data in AQS when determining the attainment status of an area. See 40 CFR 50.6; 40 CFR part 50, appendix J; 40 CFR part 53; 40 CFR part 58, appendix A. EPA 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, including the quality assurance and quality control criteria in 40 CFR part 58, appendix A. 40 CFR 58.14 (2006) and 58.20 (2007);<sup>3</sup>

<sup>3</sup> EPA promulgated amendments to the ambient air monitoring regulations in 40 CFR parts 53 and 58 on October 17, 2006. See 71 FR 61236. The requirements for Special Purpose Monitors were

71 FR 61236, 61242 (October 17, 2006). All valid data are reviewed to determine the area’s air quality status in accordance with 40 CFR part 50, appendix K.

Attainment of the 24-hour PM<sub>10</sub> standard is determined by calculating the expected number of exceedances of the standard in a year. The 24-hour standard is attained when the expected number of exceedances averaged over a three-year period is less than or equal to one at each monitoring site within the nonattainment area. Generally, three consecutive years of air quality data are required to show attainment of the 24-hour PM<sub>10</sub> standard. See 40 CFR part 50 and appendix K.<sup>4</sup>

#### D. What is the attainment date for the Las Vegas Valley PM<sub>10</sub> nonattainment area?

As noted above, the original attainment date for the Las Vegas Valley PM<sub>10</sub> nonattainment area was December 31, 1994, but was later extended, first to December 31, 2001, and later, to December 31, 2006. See 58 FR 3334 (January 8, 1993) and 69 FR 32273 (June 9, 2004).

#### E. What PM<sub>10</sub> planning has occurred for the Las Vegas Valley PM<sub>10</sub> nonattainment area?

After Las Vegas Valley was designated nonattainment for PM<sub>10</sub>, Clark County and NDEP began in the early 1990s to prepare the technical elements needed to bring the area into attainment and meet the planning requirements of title I of the CAA. NDEP submitted a moderate area PM<sub>10</sub> plan for the Las Vegas Valley on December 6, 1991. Based on this submittal, EPA determined on January 8, 1993, that the Las Vegas Valley could not practicably attain the PM<sub>10</sub> NAAQS by the applicable attainment deadline for moderate areas (December 31, 1994, per section 188(c)(1) of the Act), and reclassified the Las Vegas Valley as serious (58 FR 3334).

In response to the area’s reclassification as a “serious” PM<sub>10</sub> nonattainment area, Clark County prepared and, and NDEP submitted, a serious area PM<sub>10</sub> plan in 1997 that EPA subsequently proposed to disapprove, along with the previously submitted plan. See 65 FR 37324 (June 14, 2000). However, NDEP submitted a revised serious area PM<sub>10</sub> plan in July 2001, which EPA later approved. 69 FR 32273

revised and moved from 40 CFR 58.14 to 40 CFR 58.20.

<sup>4</sup> Because the annual PM<sub>10</sub> standard was revoked effective December 18, 2006, see 71 FR 61144 (October 17, 2006), this document discusses only attainment of the 24-hour PM<sub>10</sub> standard.

(June 9, 2004). Among the various serious area SIP elements approved by EPA in 2004 are the best available control measures (BACM) demonstration under CAA section 189(b)(1)(B), the most stringent measures (MSM) demonstration under CAA section 188(e), and various Clark County air pollution control rules regulating such fugitive dust sources as open areas, unpaved roads, and construction activities.

## II. EPA’s Analysis

### A. What does the air quality data show as of the December 31, 2006 attainment date?

Clark County DAQEM is responsible for monitoring ambient air quality within Clark County. DAQEM submits monitoring network plan reports to EPA on an annual basis. These reports discuss the status of the air monitoring network, as required under 40 CFR part 58. Beginning in 2007, EPA reviews these annual plans for compliance with the applicable reporting requirements in 40 CFR 58.10. With respect to PM<sub>10</sub>, we have found DAQEM’s annual network plans to meet the applicable requirements under 40 CFR part 58. See EPA letters to DAQEM concerning DAQEM’s annual network plan reports for years 2007, 2008, and 2009. Furthermore, we concluded in our *Technical System Audit Report* (February 2010) that Clark County DAQEM’s ambient air monitoring network currently meets or exceeds the requirements for the minimum number of monitoring sites designated as SLAMS for all of the criteria pollutants, and that all of the monitoring sites are properly located with respect to monitoring objectives, spatial scales and other site criteria.

Clark County DAQEM currently operates nine PM<sub>10</sub> SLAMS monitoring sites within Las Vegas Valley: Craig Road (North Las Vegas), Green Valley (Henderson), J.D. Smith School (North Las Vegas), Joe Neal (northwest Las Vegas), Lone Mountain (northwest Las Vegas), Orr School (central-southeast Las Vegas), Paul Meyer Park (southwest Las Vegas), Palo Verde School (west Las Vegas), Sunrise Acres School (central Las Vegas), and Walter Johnson (west Las Vegas). All nine sites monitor PM<sub>10</sub> concentrations on a continuous basis using Beta Attenuation Monitors (BAMs). See Clark County DAQEM’s *Annual Network Plan Report* (June 2010). Most of the sites are sited to provide PM<sub>10</sub> concentration data at a

neighborhood scale<sup>5</sup> for the purpose of determining population exposure. The Craig Road site, however, is intended to capture the highest PM<sub>10</sub> concentrations in Las Vegas Valley (*i.e.*, at the neighborhood scale), and Green Valley

and Palo Verde are intended to represent middle scale<sup>6</sup> conditions.

In Table 1, below, we present a summary of AQS data collected at the nine PM<sub>10</sub> sites currently in operation, as well as two sites (City Center in Las Vegas and Southeast Valley in Henderson), which have closed since

2006, and two sites (East Sahara in central Las Vegas and Walter Johnson in west Las Vegas), which no longer monitor PM<sub>10</sub>. As shown in Table 1, only one PM<sub>10</sub> exceedance was measured at any of the monitoring sites over the 2004–2006 period.

TABLE 1—SUMMARY OF LAS VEGAS VALLEY PM<sub>10</sub> MONITORING DATA, 2004–2006

Monitoring site	Highest 24-hour PM <sub>10</sub> concentration (µg/m <sup>3</sup> )			Expected exceedances per year
	2004	2005	2006	
	2004–2006			
City Center *	84	70	95	0.0
Craig Road	151	149	<b>157</b>	0.4
East Sahara *	89	99	93	0.0
Green Valley	84	79	97	0.0
J.D. Smith	122	144	136	0.0
Joe Neal	135	124	122	0.0
Lone Mountain	58	55	82	0.0
Orr	88	75	94	0.0
Paul Meyer	86	70	100	0.0
Palo Verde	65	46	69	0.0
Southeast Valley *	119	84	77	0.0
Sunrise Acres	72	120	113	0.0
Walter Johnson *	64	56	106	0.0

PM<sub>10</sub>NAAQS = 150 µg/m<sup>3</sup>. Exceedances shown in **bold** type.  
 \* Site is no longer in operation or is no longer monitoring PM<sub>10</sub>

Based on a review of air quality data during the three-year period ending with the December 31, 2006 attainment date (and summarized above in table 1), we find that the expected number of exceedances per year for Las Vegas Valley for 2004–2006 is 0.4 days per year (based on the Craig Road monitoring site, the only one measuring an exceedance). This is less than an annual expected exceedance rate for the 24-hour PM<sub>10</sub> NAAQS of 1.0 and represents attainment of the standard. EPA has therefore determined that the Las Vegas Valley PM<sub>10</sub> nonattainment area attained the PM<sub>10</sub> NAAQS by the applicable attainment date of December 31, 2006.

*B. Does more recent air quality data also show attainment?*

Although the attainment date for the Las Vegas Valley PM<sub>10</sub> nonattainment area is December 31, 2006, EPA has also reviewed the air quality data collected at Clark County DAQEM's PM<sub>10</sub> monitoring sites in Las Vegas Valley from January 2007 through the first quarter of 2010. During this period, the only exceedances of the 150 µg/m<sup>3</sup> 24-hour standard occurred at the Craig Road site, which monitored 24-hour concentrations of 203 and 168 µg/m<sup>3</sup> in

2008, but given the continuous nature of PM<sub>10</sub> monitoring at the site, the annual expected exceedance rate, averaged over three years, has not exceeded 1.0. Thus, the data continue to show attainment of the 24-hour PM<sub>10</sub> NAAQS in Las Vegas Valley since the end of 2006.

**III. EPA's Final Action**

Under section 188(b)(2) of the Clean Air Act, and based on complete, quality-assured data, we find that the Las Vegas Valley PM<sub>10</sub> nonattainment area attained the 24-hour PM<sub>10</sub> NAAQS by the applicable attainment date (December 31, 2006). We also find that the Las Vegas Valley nonattainment area is currently attaining the PM<sub>10</sub> standard. This action is not a redesignation to attainment under CAA section 107(d)(3) because we have not yet approved a maintenance plan as meeting the requirements of section 175A of the CAA or determined that the area has met the other CAA requirements for redesignation. The PM<sub>10</sub> classification and designation status in 40 CFR part 81 will remain serious nonattainment for Las Vegas Valley until such time as the State of Nevada meets the CAA requirements for redesignation of the valley to attainment.

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 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 *October 4, 2010*, without further notice unless the EPA receives relevant adverse comments by *September 2, 2010*.

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 *October 4, 2010* and no further action will be taken on the proposed rule.

**IV. Statutory and Executive Order Reviews**

This action merely makes a determination based on air quality data and does not impose any additional

<sup>5</sup> In this context, "neighborhood scale" refers to conditions throughout some reasonably homogeneous urban sub-region with dimensions of

a few kilometers. See 40 CFR part 58, appendix D, section 4.6.

<sup>6</sup> In this context, "middle scale" refers to conditions characteristic of areas from 100 meters to several kilometers.

Federal requirements. For that reason, this action:

- Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- 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 CAA; and
- Does not provide 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, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because it will not impose substantial direct costs on tribal governments or preempt tribal law.

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 action 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 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 *October 4, 2010*. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action 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. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today’s **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2)).

#### List of Subjects in 40 CFR Part 81

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

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

Dated: July 21, 2010.

**Keith Takata,**

*Acting Regional Administrator, EPA Region IX.*

[FR Doc. 2010–19061 Filed 8–2–10; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 272

[EPA–R02–RCRA–2010–0249; FRL–9178–8]

#### New York: Incorporation by Reference of State Hazardous Waste Management Program

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

**ACTION:** Direct final rule.

**SUMMARY:** The Solid Waste Disposal Act, as amended, commonly referred to as the Resource Conservation and Recovery Act (RCRA), allows the Environmental Protection Agency (EPA) to authorize States to operate their hazardous waste management programs in lieu of the Federal program. EPA uses the regulations entitled “Approved State Hazardous Waste Management Programs” to provide notice of the

authorization status of State programs and to incorporate by reference those provisions of the State regulations that will be subject to EPA’s inspection and enforcement. This rule does not incorporate by reference the New York hazardous waste statutes. The rule codifies in the regulations the prior approval of New York’s hazardous waste management program and incorporates by reference authorized provisions of the State’s regulations.

**DATES:** This regulation is effective October 4, 2010, unless EPA receives adverse written comment on this regulation by the close of business September 2, 2010. If EPA receives such comments, it will publish a timely withdrawal of this direct final rule in the **Federal Register** informing the public that this rule will not take effect. The Director of the Federal Register approves this incorporation by reference as of October 4, 2010 in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–R02–RCRA–2010–0249, by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.
- *E-mail:* [infurna.michael@epa.gov](mailto:infurna.michael@epa.gov).
- *Fax:* (212) 637–4437.
- *Mail:* Send written comments to Michael Infurna, Division of Environmental Planning and Protection, EPA, Region 2, 290 Broadway, 22nd Floor, New York, NY 10007.

- *Hand Delivery or Courier:* Deliver your comments to Michael Infurna, Division of Environmental Planning and Protection, EPA, Region 2, 290 Broadway, 22nd Floor, New York, NY 10007. Such deliveries are only accepted during the Regional Office’s normal hours of operation. The public is advised to call in advance to verify the business hours. Special arrangements should be made for deliveries of boxed information.

*Instructions:* Direct your comments to Docket ID. No. EPA–R02–RCRA–2010–0249. EPA’s policy is that all comments received will be included in the public docket without change, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov>, or e-mail. The Federal <http://www.regulations.gov> Web site is an “anonymous access” system, which means EPA will not know your