



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA-R08-OAR-2019-0690; FRL-10010-18-Region 8]

Air Quality State Implementation Plans; Approvals and Promulgations: Montana; Columbia Falls, Kalispell and Libby PM10 Nonattainment Area Limited Maintenance Plan and Redesignation Request

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving the Limited Maintenance Plan (LMP) for the Columbia Falls, Kalispell and Libby nonattainment areas (NAAs) and the State's request to redesignate the Columbia Falls, Kalispell and Libby NAAs from nonattainment to attainment for the 1987 24-hour particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM₁₀) National Ambient Air Quality Standard (NAAQS). Additionally, the EPA is determining that the Libby and Kalispell NAAs have attained the PM₁₀ NAAQS based on monitoring data from calendar years 2016-2018. On January 31, 2011, the EPA determined that the Columbia Falls NAA attained the PM₁₀ NAAQS. The EPA is also approving the Columbia Falls, Kalispell and Libby LMP as meeting the appropriate transportation conformity requirements. The EPA is taking this action pursuant to the Clean Air Act (CAA).

DATES: This rule is effective on [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA-R08-OAR-2019-0690. All documents in the docket are listed on the <http://www.regulations.gov>

website. 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, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available through <http://www.regulations.gov>, or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Kate Gregory, (303) 312-6175, gregory.kate@epa.gov. Mail can be directed to the Air and Radiation Division, U.S. EPA, Region 8, Mail-code 8ARD-QP, 1595 Wynkoop Street, Denver, Colorado, 80202-1129.

SUPPLEMENTARY INFORMATION: Throughout this document “we,” “us,” and “our” means the EPA.

I. Background

The Columbia Falls PM₁₀ NAA is one of three NAAs in Flathead County. It is rectangularly shaped, and generally encompasses the downtown portion of Columbia Falls and the nearby surrounding areas. Columbia Falls was originally designated as a Group I area on August 7, 1987, meaning it was likely to violate the PM₁₀ NAAQS, and was subsequently classified as a Moderate NAA for the 1987 24-hour PM₁₀ NAAQS on November 6, 1991. *See* 56 FR 56694. States containing initial Moderate PM₁₀ 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 PM₁₀ 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 PM₁₀ 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 PM₁₀ 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 PM₁₀ attainment plan on March 19, 1996 (61 FR 11153).

The Libby PM₁₀ NAA is one of three NAAs in Flathead County. It 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 PM₁₀ NAAQS, and was subsequently classified as a Moderate NAA for the 1987 24-hour PM₁₀ NAAQS on November 6, 1991. *See* 56 FR 56694.

The State of Montana submitted an initial PM₁₀ SIP to the EPA on November 25, 1991, with revisions and corrections submitted on May 24, 1993 and June 3, 1994. The State of Montana's SIP for the Libby Moderate PM₁₀ NAA included, among other things: A comprehensive emissions inventory; RACM; a demonstration that attainment of the PM₁₀ 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 PM₁₀ 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).

The Kalispell PM₁₀ 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 PM₁₀ NAAQS, and was subsequently classified as a Moderate NAA for the 1987 24-hour PM₁₀ NAAQS on November 6, 1991. *See* 56 FR 56694. The State of Montana submitted an initial PM₁₀ SIP to the EPA on November 25, 1991 and submitted three additional SIP revisions 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 PM₁₀ 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 PM₁₀ attainment plan on March 19, 1996 (61 FR 11153).

The factual and legal background for this action is discussed in detail in our March 20, 2020 (85 FR 16029) proposed approval of the Columbia Falls, Kalispell and Libby LMP as meeting the appropriate transportation conformity requirements, and concurrent redesignation of the Columbia Falls, Kalispell and Libby NAAs to attainment of the NAAQS for PM₁₀.

II. Response to Comments

The public comment period on the EPA's proposed rule opened on March 20, 2020, the date of its publication in the *Federal Register*, (85 FR 16029), and closed on April 20, 2020. During this time, the EPA received no comments.

III. Final Action

For the reasons explained in our proposed action, we are approving 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 PM₁₀ NAAQS. Additionally, the EPA has determined that the Kalispell and Libby NAAs have

attained the NAAQS for PM₁₀.¹ This determination is based upon monitored air quality data for the PM₁₀ NAAQS during the years 2016-2018. The EPA is approving the Columbia Falls, Kalispell and Libby LMPs as meeting the appropriate transportation conformity requirements found in 40 CFR part 93, subpart A and general conformity requirements found in 40 CFR part 93, subpart B.

IV. Statutory and Executive Order Reviews

Under the Clean Air Act, 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 Clean Air Act. Accordingly, this action merely approves 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.*);

¹ See January 31, 2011 (76 FR 5280) wherein the EPA determined that the Columbia Falls NAA attained the PM₁₀ NAAQS.

- Does not contain any unfunded mandate or significantly or uniquely affect small governments, 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 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 EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, 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).

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 **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. 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. 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, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Greenhouse gases, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

40 CFR Part 81

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

Dated: May 29, 2020.

Gregory Sopkin,
Regional Administrator,
Region 8.

For the reasons stated in the preamble, EPA amends 40 CFR parts 52 and 81 as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart BB—Montana

2. In §52.1370:

a. In the table in paragraph (e):

i. Add the entries “Columbia Falls 1987 PM₁₀ Limited Maintenance Plan” and “Kalispell 1987 PM₁₀ Limited Maintenance Plan” in alphabetical order under the heading entitled “(3) Flathead County”.

ii. Add the entry “Libby 1987 PM₁₀ Limited Maintenance Plan” in alphabetical order under the heading entitled “(5) Lincoln County”.

The additions read as follows:

§52.1370 Identification of plan.

* * * * *

(e) * * *

| Title/Subject | State effective date | Notice of final rule date | NFR Citation |
|---|----------------------|---|---|
| * * * * * | | | |
| (3) Flathead County | | | |
| * * * * * | | | |
| Columbia Falls 1987 PM₁₀ Limited Maintenance Plan | | [insert date of publication in the Federal Register] | [insert Federal Register citation] |
| * * * * * | | | |

| | | | |
|--|--|---|---|
| Kalispell 1987 PM₁₀ Limited Maintenance Plan | | [insert date of publication in the Federal Register] | [insert Federal Register citation] |
| * * * * * | | | |
| (5) Lincoln County | | | |
| * * * * * | | | |
| Libby 1987 PM₁₀ Limited Maintenance Plan | | [insert date of publication in the Federal Register] | [insert Federal Register citation] |
| * * * * * | | | |

3. In §52.1374, add paragraph (e) to read as follows:

§52.1374 Control strategy: Particulate matter.

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(e) On July 23, 2019, the State of Montana submitted limited maintenance plans for the Columbia Falls, Kalispell and Libby PM₁₀ nonattainment areas and requested that these areas be redesignated to attainment for the PM₁₀ National Ambient Air Quality Standards. The redesignation request and limited maintenance plans satisfy all applicable requirements of the Clean Air Act.

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

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

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

Subpart C—Section 107 Attainment Status Designations

5. In §81.327, amend the table entitled “Montana—PM–10” by revising the entries for “Flathead County:” and “Lincoln County, Libby and vicinity” to read as follows:

§81.327 Montana.

* * * * *

| Designated Area | Designation | | Classification | |
|---|--|------------|----------------|------|
| | Date | Type | Date | Type |
| * * * * * | | | | |
| Flathead County: | | | | |
| The area bounded by lines from Universal Transmercator (UTM) coordinate 700000mE, 5347000mN, east to 704000mE, 5347000mN, south to 704000mE, 5341000mN, west to 703000mE, 5341000mN, south to 703000mE, 5340000mN, west to 702000mE, 5340000mN, south to 702000mE, 5339000mN, east to 703000mE, 5339000mN, south to 703000mE, 5338000mN, east to 704000mE, 5338000mN, south to 704000mE, 5336000mN, west to 702000mE, 5336000mN, south to 702000mE, 5335000mN, west to 700000mE, 5335000mN, north to 700000mE, 5340000mN, west to 695000mE, 5340000mN, north to 695000mE, 5345000mN, east to 700000mE, 5345000mN, north to 700000mE, 5347000mN. | [insert date 30 days after date of publication in the Federal Register] | Attainment | | |
| * * * * * | | | | |
| Lincoln County, Libby and vicinity | [insert date 30 days after date of publication in the Federal Register] | Attainment | | |
| * * * * * | | | | |

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