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Dated: February 21, 2013.

**Brenda Dann-Messier,**

*Assistant Secretary for Vocational and Adult Education.*

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**BILLING CODE 4000-01-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-HQ-OAR-2012-0943, FRL-9784-6]

#### Findings of Failure To Submit a Complete State Implementation Plan for Section 110(a) Pertaining to the 2008 Lead National Ambient Air Quality Standards

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

**ACTION:** Final rule.

**SUMMARY:** The EPA is finding that seven states have not made complete state implementation plan (SIP) submissions to address certain SIP elements, as required by the Clean Air Act (CAA). Specifically, the EPA is determining that these seven states have not submitted complete SIPs that provide the basic CAA program elements necessary to implement the 2008 lead national ambient air quality standards (NAAQS). The EPA refers to these SIP submissions as “infrastructure” SIPs. Of the seven states, three are incomplete only due to prevention of significant deterioration (PSD)-related elements, for which a federal implementation plan (FIP) is in place. The remaining 43 states have made complete submissions. Each finding of failure to submit establishes a 24-month deadline for the EPA to promulgate FIPs to address the outstanding SIP elements unless prior to the EPA promulgating a FIP an affected state submits, and the EPA approves, a SIP that corrects the deficiency.

**DATES:** The effective date of this rule is March 28, 2013.

**FOR FURTHER INFORMATION CONTACT:** General questions concerning this notice should be addressed to Ms. Mia South: telephone (919) 541-5550, email [south.mia@epa.gov](mailto:south.mia@epa.gov); or Mr. Larry Wallace: telephone (919) 541-0906, email [wallace.larry@epa.gov](mailto:wallace.larry@epa.gov), Office of

Air Quality Planning and Standards, Air Quality Policy Division, Mail Code C504-2, 109 TW Alexander Drive, Research Triangle Park, NC 27709.

**SUPPLEMENTARY INFORMATION:** Section 553 of the Administrative Procedures Act, 5 U.S.C. 553(b)(B), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. The EPA has determined that there is good cause for making this rule final without prior proposal and opportunity for comment because no significant EPA judgment is involved in making a finding of failure to submit SIPs, or elements of SIPs, required by the CAA, where states have made no submissions, or incomplete submissions, to meet the requirement. Thus, notice and public procedure are unnecessary. The EPA finds that this constitutes good cause under 5 U.S.C. 553(b)(B).

For questions related to specific states mentioned in this notice, please contact the appropriate EPA Regional Office:

Regional offices	States
EPA Region I: Dave Conroy, Air Program Branch Manager, Air Programs Branch, EPA New England, 1 Congress Street, Suite 1100, Boston, MA 02203-2211.	Massachusetts and Vermont.
EPA Region II: Richard Ruvo, Acting Chief, Air Programs Branch, EPA Region II, 290 Broadway, 21st Floor, New York, NY 10007-1866.	New Jersey.
EPA Region III: Cristina Fernandez, Air Program Manager, Air Quality Planning Branch, EPA Region III, 1650 Arch Street, Philadelphia, PA 19103-2187.	Maryland and Pennsylvania.
EPA Region V: John Mooney, Air Program Branch Manager, Air Programs Branch, EPA Region V, 77 West Jackson Street, Chicago, IL 60604.	Illinois.
EPA Region VI: Guy Donaldson, Chief, Air Planning Section, EPA Region VI, 1445 Ross Avenue, Dallas, TX 75202-2733.	Oklahoma.
EPA Region VIII: Monica Morales, Air Program Manager, Air Quality Planning Unit, EPA Region VIII Air Program, 1595 Wynkoop St. (8P-AR), Denver, CO 80202-1129.	Colorado and South Dakota.
EPA Region IX: Doris Lo, Acting Air Program Manager, Air Planning Office, EPA Region IX, 75 Hawthorne Street, San Francisco, CA 94105.	Hawaii.
EPA Region X: Debra Suzuki, Air Program Manager, Air Planning Unit, EPA Region X, Office of Air, Waste, and Toxics, Mail Code AWT-107, 1200 Sixth Avenue, Seattle, WA 98101.	Oregon and Washington.

## Table of Contents

- I. Background and Overview
- II. Findings of Failure to Submit for States That Failed to Make an Infrastructure SIP Submittal in Whole or in Part for the 2008 Lead NAAQS
  - A. Findings of Failure To Submit for States That Failed To Make a Submittal
  - B. Findings of Failure To Submit Specific Elements of Section 110(a)(2)
- III. Statutory and Executive Order Reviews

- A. Executive Order 12866: Regulatory Planning and Executive Order 13563: Improving Regulation and Regulatory Review
- B. Paperwork Reduction Act
- C. Regulatory Flexibility Act (RFA)
- D. Unfunded Mandates Reform Act of 1995 (UMRA)
- E. Executive Order 13132: Federalism
- F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

- G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks
- H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution or Use
- I. National Technology Transfer and Advancement Act
- J. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority and Low Income Populations
- K. Congressional Review Act
- L. Judicial Review

## I. Background and Overview

On October 15, 2008, the EPA promulgated revised NAAQS for lead.<sup>1</sup> The agency revised the level of the primary lead standard from 1.5 micrograms per cubic meter ( $\mu\text{g}/\text{m}^3$ ) to 0.15  $\mu\text{g}/\text{m}^3$ , and revised other aspects of the standard. The EPA also revised the secondary NAAQS to make it identical to the revised primary standard.

The CAA section 110(a) imposes an obligation upon states to make a SIP submission with respect to the 2008 lead NAAQS. CAA section 110(a)(1) requires states to submit SIPs that provide for the implementation, maintenance and enforcement of a new or revised NAAQS within 3 years following the promulgation of the new or revised NAAQS. The EPA has not prescribed a shorter deadline; therefore, October 15, 2011, was the statutory deadline. Section 110(a)(2) lists specific requirements that states must meet in these SIP submissions, as applicable. The EPA refers to this type of SIP submission as the “infrastructure” SIP. The requirements for infrastructure SIPs include basic SIP elements such as requirements for monitoring, basic program requirements and legal authority that are designed to assure attainment and maintenance of the NAAQS. The contents of that submission may vary depending upon the facts and circumstances. In particular, the data and analytical tools available at the time the state develops and submits the SIP for a new or revised NAAQS necessarily affect the content of the submission. The content of such a SIP submission may also vary depending upon what provisions the state’s existing SIP already contains. In the case of the 2008 lead NAAQS, the EPA believes that many states have met many of the basic program elements required in section 110(a)(2) through earlier SIP submissions in connection with previous NAAQS.

Two elements identified in section 110(a)(2) are not governed by the 3-year submission deadline of section 110(a)(1) because SIPs incorporating necessary local nonattainment area requirements are not due within 3 years after promulgation of a new or revised NAAQS, but rather are due at the time the nonattainment area plan requirements are due pursuant to section 191.<sup>2</sup> These requirements are: (i)

Submissions required by section 110(a)(2)(C) to the extent that subsection refers to a nonattainment area new source review permit program for major sources as required in part D of title I of the CAA; and (ii) submissions required by section 110(a)(2)(I) which pertains to the nonattainment planning requirements of part D of title I of the CAA. Therefore, this action does not cover these specific SIP elements in section 110(a)(2). This action does cover the requirement that infrastructure SIPs provide for a minor source permitting program.

The EPA is also not, in this notice, issuing any findings of failure to submit SIPs addressing section 110(a)(2)(D)(i)(I) of the CAA. The EPA has historically interpreted section 110(a)(1) of the CAA as establishing the required submittal date for SIPs addressing all of the “interstate transport” requirements in section 110(a)(2)(D) including the provisions in section 110(a)(2)(D)(i)(I) regarding significant contribution to nonattainment and interference with maintenance. The D.C. Circuit’s recent opinion in *EME Homer City Generation v. EPA*, 696 F.3d 7, 31 (D.C. Cir. 2012), however, concluded that a SIP cannot be deemed to lack a required submission or deemed deficient for failure to meet the 110(a)(2)(D)(i)(I) obligation until after the EPA quantifies that obligation. At this time, the deadline for asking the Supreme Court to review this decision has not passed, and the United States has made no decision regarding whether to seek further appeal. Nonetheless, the EPA intends to act in accordance with the holdings in the *EME Homer City* opinion. Therefore, at this time the EPA is not making findings that states failed to submit SIPs to comply with section 110(a)(2)(D)(i)(I).

On September 24, 2012, litigants sued the EPA for failure to perform certain mandatory duties under the CAA, including a failure to find that the following states had failed to submit infrastructure SIPs for the 2008 lead NAAQS: Colorado, Hawaii, Illinois, Maryland, Massachusetts, New Jersey, Oklahoma, Oregon, Pennsylvania, South Dakota, Vermont and Washington.<sup>3</sup> As of February 14, 2013, the states of Colorado, Maryland, Oklahoma, Pennsylvania and South Dakota have made complete submittals for their respective infrastructure SIPs for the 2008 lead NAAQS. With respect to the

remaining states, the EPA is making findings of failure to submit, in whole or in part.

After excluding SIP elements required by CAA sections 110(a)(2)(C) to the extent that subsection refers to a nonattainment area new source review permit program for major sources as required in part D of title I of the CAA, 110(a)(2)(I) regarding plans for nonattainment areas, and 110(a)(2)(D)(i)(I) regarding interstate transport affecting attainment and maintenance of the NAAQS, as explained above, the remaining elements that are relevant to this action are the requirements of CAA sections 110(a)(2)(A), (B), (C) (but not with respect to the permitting program required by CAA title I subpart D), (D)(i)(II), (D)(ii), (E)–(H) and (J)–(M).

For those states cited in this litigation that have not yet made an infrastructure SIP submittal and those states that have made a submittal that was not complete with respect to each relevant element of section 110(a)(2), as applicable, the EPA is making a finding of failure to submit. Four states have not made any submittal, and for these states the EPA is making a finding with respect to all of the relevant section 110(a)(2) SIP elements. Three states made a SIP submittal that was found complete with respect to all required elements except those elements that are related to PSD in sections 110(a)(2)(C), (D)(i)(II), (D)(ii), and (J).<sup>4</sup> For these three states, the EPA is issuing findings of failure to submit only with respect to the PSD-related elements. For both sets of states, these findings reflect submissions received or not received as of February 14, 2013.

These findings establish a 24-month deadline for the promulgation by the EPA of a FIP, in accordance with section 110(c)(1) for those states for which the EPA is making a finding unless the EPA has approved a final SIP by that date. These findings of failure to submit do not impose sanctions, or set deadlines for imposing sanctions as described in section 179 of the CAA, because these findings do not pertain to the elements of a part D, title I plan for nonattainment areas as required under section 110(a)(2)(I), and because these states have not failed to make submissions in response to a SIP call pursuant to section 110(k)(5). Moreover, the EPA has already promulgated a FIP that

<sup>1</sup> See 73 FR 66964, November 12, 2008, National Ambient Air Quality Standards for Lead, Final Rule.

<sup>2</sup> Nonattainment area plans required by part D title I of the CAA for the 2008 lead NAAQS are due 18 months after the effective date of designation of an area as nonattainment. The nonattainment plans

are due June 30, 2012, for the first round of designations and June 30, 2013, for the second round of designations.

<sup>3</sup> *Center for Biological Diversity, et al., v. EPA*, (N.D. Cal. No. 12–cv–04968).

<sup>4</sup> The PSD-related requirements are the requirements for a PSD permitting program in sections 110(a)(2)(C) and (J), the requirements in section 110(a)(2)(D)(a)(ii) not to interfere with measures to prevent significant deterioration in another state’s SIP and the requirement for notifications to other states in section 110(a)(2)(D)(ii).

addresses PSD-related requirements for each of the states for which the EPA is making a finding of failure to submit only for PSD-related requirements. Therefore, this action will not trigger any additional PSD FIP obligations in these three states. Two of the four states that did not make any submittal also are currently subject to PSD FIPs. The EPA recognizes that these five states may choose to have the existing PSD FIP continue to govern the permitting of their sources, in which case the current permitting process in each state will continue without the need for further action by the state.

To summarize, the EPA is finding that seven states, as identified in section II of this notice, have not made a complete infrastructure SIP submission to meet certain requirements of section 110(a)(2) that are relevant to this action, as applicable, for the 2008 lead NAAQS. The EPA is committed to working with these states to expedite submissions as necessary, and to working with all the states to review and act on their infrastructure SIP submissions in accordance with the requirements of the CAA.

## II. Findings of Failure to Submit for States That Failed to Make an Infrastructure SIP Submittal in Whole or in Part for the 2008 Lead NAAQS

The EPA is making findings that certain states identified below have failed to submit a complete infrastructure SIP that provides certain basic program elements of section 110(a)(2) necessary to implement the 2008 lead NAAQS, by February 14, 2013. The EPA is establishing a 24-month deadline by which time the EPA must promulgate a FIP for each affected state to address the identified section 110(a)(2) requirements, unless the state submits and the EPA approves a SIP revision that corrects the deficiency before the EPA promulgates a FIP for the state, in accordance with section 110(c)(1). This action will be effective 30 days after publication, on March 28, 2013.

### A. Findings of Failure To Submit for States That Failed To Make a Submittal

As of February 14, 2013, New Jersey, Oregon, Vermont and Washington failed to make a submittal to address the requirements of section 110(a)(2)(A), (B), (C) (but not with respect to the permitting program required by CAA title I subpart D), (D)(i)(II), (D)(ii), (E)–(H) and (J)–(M).

The effective date of this action starts a 24-month FIP clock for the EPA to approve a SIP for the affected states that addresses those requirements of section

110(a)(2), or for the EPA to finalize a FIP. The EPA notes that it has already promulgated FIPs to address PSD-related requirements for New Jersey and Washington and therefore this action will not trigger additional PSD FIP obligations for these states.

### B. Findings of Failure To Submit Specific Elements of Section 110(a)(2)

Hawaii, Illinois and Massachusetts made submittals as of February 14, 2013, that address all of the section 110(a)(2) requirements, with the exception of the PSD-related requirements in sections 110(a)(2)(C), (D)(i)(II), (D)(ii), and (J). The EPA notes that it has already promulgated a FIP to address PSD-related requirements for each of these states and therefore this action will not trigger any additional FIP obligations for these states.

## III. Statutory and Executive Order Reviews

### A. Executive Orders 12866: Regulatory Planning and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a “significant regulatory action” under the terms of Executive Order (EO) 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to review under EO 12866 and 13563 (76 FR 3821, January 21, 2011).

### B. Paperwork Reduction Act

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* This final rule does not establish any new information collection requirement apart from what is already required by law. This rule relates to the requirement in the CAA for states to submit SIPs under section 110(a) to satisfy certain infrastructure and general authority-related elements required under section 110(a)(2) of the CAA for the 2008 lead NAAQS. Section 110(a)(1) of the CAA requires that states submit SIPs that implement, maintain and enforce a new or revised NAAQS which satisfy the requirements of section 110(a)(2) within 3 years of promulgation of such standard, or such shorter period as the EPA may provide.

Burden means the total time, effort or financial resources expended by persons to generate, maintain, retain or disclose or provide information to or for a federal agency. This includes the time needed to review instructions; develop, acquire, install and utilize technology and systems for the purposes of collecting, validating and verifying information,

processing and maintaining information and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information. An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for the EPA’s regulations in the CFR are listed in 40 CFR Part 9.

### C. Regulatory Flexibility Act (RFA)

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedures Act (APA) or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations and small governmental jurisdictions. For the purpose of assessing the impacts of this final rule on small entities, small entity is defined as: (1) A small business that is a small industry entity as defined in the U.S. Small Business Administration (SBA) size standards (*See* 13 CFR part 121); (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of this final rule on small entities, I certify that this rule will not have a significant economic impact on a substantial number of small entities. This final rule will not impose any requirements on small entities. This action relates to the requirement in the CAA for states to submit SIPs under section 110(a) to satisfy certain infrastructure and general authority-related elements required under section 110(a)(2) of the CAA for the 2008 lead NAAQS. Section 110(a)(1) of the CAA requires that states submit SIPs that implement, maintain and enforce a new or revised NAAQS which satisfies the requirements of section 110(a)(2) within 3 years of promulgation of such standard, or such shorter period as the EPA may provide.

*D. Unfunded Mandates Reform Act of 1995 (UMRA)*

This action contains no federal mandate under the provisions of Title II of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1531–1538 for state, local and tribal governments and the private sector. The action imposes no enforceable duty on any state, local or tribal governments or the private sector. Therefore, this action is not subject to the requirements of section 202 and 205 of the UMRA.

This action is also not subject to the requirements of section 203 of UMRA because it contains no regulatory requirements that might significantly or uniquely affect small governments. This action relates to the requirement in the CAA for states to submit SIPs under section 110(a) to satisfy certain infrastructure and general authority-related elements required under section 110(a)(2) of the CAA for the 2008 lead NAAQS. Section 110(a)(1) of the CAA requires that states submit SIPs that implement, maintain and enforce a new or revised NAAQS which satisfies the requirements of section 110(a)(2) within 3 years of promulgation of such standard, or such shorter period as the EPA may provide.

*E. Executive Order 13132: Federalism*

EO 13132, entitled “Federalism” (64 FR 43255, August 10, 1999), requires the EPA to develop an accountable process to ensure “meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.” “Policies that have federalism implications” is defined in the EO to include regulations that have “substantial direct effects on the states, or the relationship between the national government and the states or on the distribution of power and responsibilities among the various levels of government.” This final rule does not have federalism implications. It will 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 EO 13132. The CAA establishes the scheme whereby states take the lead in developing plans to meet the NAAQS. This rule will not modify the relationship of the states and the EPA for purposes of developing programs to implement the NAAQS. Thus, EO 13132 does not apply to this rule.

*F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments*

EO 13175, entitled “Consultation and Coordination with Indian Tribal Governments” (65 FR 67249, November 9, 2000), requires the EPA to develop an accountable process to ensure “meaningful and timely input by Tribal officials in the development of regulatory policies that have Tribal implications.” This final rule does not have tribal implications, as specified in EO 13175. This rule responds to the requirement in the CAA for states to submit SIPs under section 110(a) to satisfy certain elements required under section 110(a)(2) of the CAA for the 2008 lead NAAQS. Section 110(a)(1) of the CAA requires that states submit SIPs that provide for implementation, maintenance and enforcement of a new or revised NAAQS, and which satisfy the applicable requirements of section 110(a)(2), within 3 years of promulgation of such standard, or within such shorter period as the EPA may provide. No tribe is subject to the requirement to submit an implementation plan under section 110(a) within 3 years of promulgation of a new or revised NAAQS.

*G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks*

The EPA interprets EO 13045 (62 FR 19885, April 23, 1997) as applying only to those regulatory actions that concern health or safety risks, such that the analysis required under section 5–501 of the EO has the potential to influence the regulation. This action is not subject to EO 13045 because it is not an action that concerns health or safety risks. This action is finding that certain states have failed to submit a complete SIP that provides certain basic program elements of section 110(a)(2) necessary to implement the 2008 lead NAAQS.

*H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution or Use*

This rule is not a “significant energy action” as defined in EO 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” (66 FR 28355, May 22, 2001), because it is not likely to have a significant adverse effect on the supply, distribution or use of energy.

*I. National Technology Transfer and Advancement Act*

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law No. 104–113, section 12(d) (15 U.S.C. 272

note), directs the EPA to use voluntary consensus standards (VCS) in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impracticable. VCS are technical standards (e.g., materials specifications, test methods, sampling procedures and business practices) that are developed or adopted by VCS bodies. The NTTAA directs the EPA to provide Congress, through OMB, explanations when the agency decides not to use available and applicable VCS. This action does not involve technical standards. Therefore, the EPA did not consider the use of any VCS.

*J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations*

EO 12898 (59 FR 7629, February 16, 1994) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies and activities on minority populations and low-income populations in the United States. The EPA has determined that this final rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not directly affect the level of protection provided to human health or the environment. This notice is making a finding that certain states have failed to submit a complete SIP that provides certain basic program elements of section 110(a)(2) necessary to implement the 2008 lead NAAQS.

*K. Congressional Review Act*

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. The 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). This rule will be effective March 28, 2013.

#### *L. Judicial Review*

Section 307(b)(1) of the CAA indicates which federal Courts of Appeal have venue for petitions of review of final agency actions by the EPA under the CAA. This section provides, in part, that petitions for review must be filed in the Court of Appeals for the District of Columbia Circuit (i) when the agency action consists of “nationally applicable regulations promulgated, or final actions taken, by the Administrator,” or (ii) when such action is locally or regionally applicable, if “such action is based on a determination of nationwide scope or effect and if in taking such action the Administrator finds and publishes that such action is based on such a determination.”

This final rule consisting of findings of failure to submit certain of the required infrastructure SIP provisions is “nationally applicable” within the meaning of section 307(b)(1). This rule affects seven states across the country that are located in five of the ten EPA Regions, five different federal circuits, and multiple time zones. In addition, the rule addresses a common core of knowledge and analysis involved in formulating the decision and a common interpretation of the requirements of 40 CFR 51 appendix V applied to determining the completeness of SIPs in states across the country.

This determination is appropriate because in the 1977 CAA Amendments that revised CAA section 307(b)(1), Congress noted that the Administrator’s determination that an action is of “nationwide scope or effect” would be appropriate for any action that has “scope or effect beyond a single judicial circuit.” H.R. Rep. No. 95–294 at 323–324, reprinted in 1977 U.S.C.A.N. 1402–03. Here, the scope and effect of this action extends to the five judicial circuits that include the states across the country affected by this action. In these circumstances, section 307(b)(1) and its legislative history authorize the Administrator to find the rule to be of “nationwide scope or effect” and thus to indicate that venue for challenges lies in the D.C. Circuit. Accordingly, the EPA is determining that this is a rule of nationwide scope or effect. 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 District of Columbia Circuit within 60 days from the date final action is published in the **Federal Register**. Filing a petition for review by the Administrator of this final action

does not affect the finality of the action for the purposes of judicial review nor does it extend the time within which a petition for judicial review must be filed, and shall not postpone the effectiveness of such rule or action. Thus, any petitions for review of this action must be filed in the Court of Appeals for the District of Columbia Circuit within 60 days from the date this final action is published in the **Federal Register**.

#### **List of Subjects in 40 CFR Part 52**

Approval and promulgation of implementation plans, Environmental protection, Administrative practice and procedures, Air pollution control, Incorporation by reference, Intergovernmental relations, and Reporting and recordkeeping requirements.

Dated: February 15, 2013.

**Gina McCarthy**,

*Assistant Administrator, Office of Air and Radiation.*

[FR Doc. 2013–04293 Filed 2–25–13; 8:45 am]

**BILLING CODE 6560–50–P**

## **DEPARTMENT OF HOMELAND SECURITY**

### **Federal Emergency Management Agency**

#### **44 CFR Part 64**

[Docket ID FEMA–2012–0003; Internal Agency Docket No. FEMA–8271]

#### **Suspension of Community Eligibility**

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Final rule.

**SUMMARY:** This rule identifies communities where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP) that are scheduled for suspension on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If the Federal Emergency Management Agency (FEMA) receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will not occur and a notice of this will be provided by publication in the **Federal Register** on a subsequent date. Also, information identifying the current participation status of a community can be obtained from FEMA’s Community Status Book

(CSB). The CSB is available at <http://www.fema.gov/fema/csb.shtm>.

**DATES: Effective Dates:** The effective date of each community’s scheduled suspension is the third date (“Susp.”) listed in the third column of the following tables.

**FOR FURTHER INFORMATION CONTACT:** If you want to determine whether a particular community was suspended on the suspension date or for further information, contact David Stearrett, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–2953.

**SUPPLEMENTARY INFORMATION:** The NFIP enables property owners to purchase Federal flood insurance that is not otherwise generally available from private insurers. In return, communities agree to adopt and administer local floodplain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits the sale of NFIP flood insurance unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed in this document no longer meet that statutory requirement for compliance with program regulations, 44 CFR Part 59. Accordingly, the communities will be suspended on the effective date in the third column. As of that date, flood insurance will no longer be available in the community. We recognize that some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue to be eligible for the sale of NFIP flood insurance. A notice withdrawing the suspension of such communities will be published in the **Federal Register**.

In addition, FEMA publishes a Flood Insurance Rate Map (FIRM) that identifies the Special Flood Hazard Areas (SFHAs) in these communities. The date of the FIRM, if one has been published, is indicated in the fourth column of the table. No direct Federal financial assistance (except assistance pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act not in connection with a flood) may be provided for construction or acquisition of buildings in identified SFHAs for communities not participating in the NFIP and identified for more than a year on FEMA’s initial