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. Nevertheless, Indian Tribes that have questions concerning the provisions of this Proposed Rule or options for compliance are encourage to contact the point of contact listed under **FOR FURTHER INFORMATION CONTACT**.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this rule under Commandant Instruction M16475.lD and Department of Homeland Security Management Directive 5100.1, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(g) of the Instruction, from further environmental documentation.

A final ''Environmental Analysis Check List'' and a final ''Categorical Exclusion Determination'' will be available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

■ For the reasons discussed in the preamble, the Coast Guard has amended 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T09–013 to read as follows:

§ 165.T09–013 Safety Zone, Kenosha Harbor, Kenosha, WI.

(a) *Location.* The following area is a temporary safety zone: All waters of Lake Michigan 2,300 yards north of Kenosha Breakwater Light (Lightlist number 20430) and from the shoreline to 1,500 yards east Kenosha Breakwater Light (Lightlist number 20430) and bounded by a line with of point origin at 42°36′29″ N, 087°47′17″ W; then west to 42°36′29″ N, 087°49′07″ W; then south along the shoreline to 42°35′19″ N, 087°48′41″ W; then east, northeast to 42°35′24″ N, 087°47′17″ W; then north to the point of origin (NAD 83).

(b) *Effective period.* This regulation is effective from 8 a.m. (local) on June 19, 2007 to 6 p.m. (local) on June 20, 2007.

(c) *Enforcement Period.* This regulation will be enforced from 8 a.m. (local) to 6 p.m. (local) on June 19, 2007 and from 8 a.m. (local) to 6 p.m. (local) on June 20, 2007.

(d) *Regulations.* (1) In accordance with the general regulations in section 165.23 of this part, entry into, transiting, or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port Lake Michigan, or his designated on-scene representative.

(2) This safety zone is closed to all vessel traffic, except as may be permitted by the Captain of the Port Lake Michigan or his designated on-scene representative.

(3) The ''on-scene representative'' of the Captain of the Port is any Coast Guard commissioned, warrant or petty officer who has been designated by the Captain of the Port to act on his behalf. The on-scene representative of the Captain of the Port will be aboard either a Coast Guard or Coast Guard Auxiliary vessel. The Captain of the Port or his designated on-scene representative may be contacted via VHF Channel 16.

(4) Vessel operators desiring to enter or operate within the safety zone shall contact the Captain of the Port Lake Michigan or his on-scene representative to obtain permission to do so. Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the Captain of the Port Lake Michigan or his on-scene representative.

Dated: May 16, 2007.

Bruce C. Jones,

Captain, U.S. Coast Guard, Captain of the Port Lake Michigan.

[FR Doc. E7–10906 Filed 6–5–07; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2007–0091, FRL–8322–5]

Findings of Failure To Attain; State of Arizona, Phoenix Nonattainment Area; State of California, Owens Valley Nonattainment Area; Particulate Matter of 10 Microns or Less

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is finalizing its findings that the Phoenix Planning Area (Phoenix nonattainment area) and the Owens Valley Planning Area (Owens Valley nonattainment area) did not attain the 24-hour National Ambient Air Quality Standard (NAAQS) for particulate matter of 10 microns or less (PM–10) by the deadline mandated in the Clean Air Act (CAA or the Act), December 31, 2006. These findings are based on monitored air quality data for the PM–10 NAAQS from 2004 through September 2006.

Several Indian tribes have reservations located within the boundaries of the Phoenix and Owens Valley nonattainment areas. EPA implements CAA provisions for determining whether such areas have attained the NAAQS by the applicable attainment deadline. After affording the affected tribal leaders the opportunity to consult with EPA on its proposed actions, the Agency is also finding that

the tribal areas have failed to attain the 24-hour PM–10 NAAQS.

As a result of these failures to attain findings, Arizona and California must submit by December 31, 2007, plan provisions that provide for attainment of the 24-hour PM–10 NAAQS and that achieve 5 percent annual reductions in PM–10 or PM–10 precursor emissions as required by CAA section 189(d).

DATES: *Effective Date:* This rule is effective on July 6, 2007.

ADDRESSES: EPA has established docket number EPA–R09–OAR–2007–0091 for this action. The index to the docket is available electronically at *http://www.regulations.gov* and in hard copy at EPA Region 9, 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: For Phoenix issues contact Doris Lo, EPA Region IX, (415) 972–3959, *lo.doris@epa.gov*; for Owens Valley issues contact Larry Biland, EPA Region IX, (415) 947–4132, *biland.larry@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, wherever ''we,'' ''us,'' or ''our'' are used, we mean EPA.

I. Proposed Action and Subsequent Air Quality Data

On March 23, 2007, EPA proposed to find that the Phoenix and Owens Valley nonattainment areas failed to attain the 24-hour PM–10 NAAQS by the CAA deadline, December 31, 2006. For details on the background and air quality data supporting these proposed findings, please see the proposed rule. 72 FR 13725.

In our proposed rule we noted that the data on which we based our proposed findings of failure to attain were collected from January 2004 through September 2006. EPA normally uses three complete calendar years of data to determine an area's attainment status. However, when less data are sufficient to unambiguously establish nonattainment, 40 CFR part 50, appendix K, section 2.3(c) allows EPA to determine that a monitor is in violation of the PM–10 NAAQS. In the case of the Phoenix and Owens Valley nonattainment areas, two years and nine months of data were available at the time of the proposed rule and clearly indicated that the areas were in violation of the 24-hour PM–10 NAAQS. Thereafter Arizona and California have submitted data for October through December 2006 to EPA's Air Quality System (AQS) database. These data indicate that there have been no additional exceedances of the PM–10 standard in the Phoenix and Owens Valley areas.[1] Therefore, the inclusion of these data does not affect EPA's proposed nonattainment findings for these areas.

II. Public Comments and EPA Responses

By letters dated March 15, 2007, EPA invited the Indian tribes located within the boundaries of the Phoenix and Owens Valley nonattainment areas to consult with us on the proposed findings. We received no response from the tribes. Moreover, EPA did not receive any adverse comments regarding the findings of failure to attain. Below is a summary of the comments we received and our responses.

Comments regarding Phoenix: In general, commenters agreed with EPA's proposed nonattainment finding for the Phoenix nonattainment area. Two commenters wanted EPA to impose sanctions because the area has received attainment date extensions and has still failed to achieve the attainment deadline.

Response: The consequence of the Phoenix nonattainment area's failure to attain the 24-hour PM–10 standard by December 31, 2006 is a finding of failure to attain that results in new PM–10 planning requirements and deadlines. See CAA sections 179(c) and 189(d). Under the CAA, failure to meet attainment deadlines does not result in the imposition of sanctions. However, under CAA section 179(a) and (b), if EPA determines that Arizona fails to submit a new plan by December 31, 2007, or determines that such a plan is incomplete, or if EPA disapproves such a plan in whole or in part, the Agency must impose offset or highway sanctions unless the deficiency has been corrected within 18 months.

Comment regarding Owens Valley: EPA received comments on the history of the Owens Valley nonattainment area's PM–10 nonattainment problem and the controls undertaken and committed to by the City of Los Angeles.

Response: EPA appreciates the information. The Great Basin Unified Air Pollution Control District and the City of Los Angeles will need to continue to work together to attain the PM–10 standard in the Owens Valley nonattainment area.

III. EPA Action

EPA is finding that the Phoenix and Owens Valley nonattainment areas did not attain the 24-hour PM–10 NAAQS by the December 31, 2006 attainment deadline.

Under section 189(d) of the Act, serious PM–10 nonattainment areas that fail to attain are required to submit within 12 months of the applicable attainment date, ''plan revisions which provide for attainment of the PM–10 air quality standard and, from the date of such submission until attainment, for an annual reduction in PM–10 or PM–10 precursor emissions within the area of not less than 5 percent of the amount of such emissions as reported in the most recent inventory prepared for such area.''

In accordance with CAA section 179(d)(3), the attainment deadline applicable to an area that misses the serious area attainment date is as soon as practicable, but no later than 5 years from the publication date of the nonattainment finding notice. EPA may, however, extend the attainment deadline to the extent it deems appropriate for a period no greater than 10 years from the publication date, ''considering the severity of nonattainment and the availability and feasibility of pollution control measures.'' In addition to the attainment demonstration and 5 percent requirements, the plans under section 189(d) for the Phoenix and Owens Valley nonattainment areas must

[1] Table 1 in the proposed rule (''Phoenix Nonattainment Area PM–10 Data Summary 2004–2006 Sites in Violation of the 24-hour PM–10 NAAQS'') provides details on the number of observed and estimated exceedances recorded at five monitoring sites in the Phoenix nonattainment area from January 2004 through September 2006. 72 FR at 13725. While the attainment status of the monitors did not change based on the inclusion of data from October through December 2006, we no longer consider one of the sites listed in Table 1, Higley (AQS# 04–013–4006), to be in violation of the NAAQS. As indicated in footnote 2 of the proposed rule, EPA has concurred with several of Arizona's requests to exclude certain exceedances of the 24-hour PM–10 NAAQS from consideration in our nonattainment finding because these exceedances were due to exceptional or natural events. *Id.* Since we prepared the proposed rule, EPA has also concurred with Arizona's request to exclude two exceedance days at the Higley monitor (April 14 and 15, 2006) as being due to natural events. (March 14, 2007 letter to Nancy C. Wrona, Arizona Department of Environmental Quality from Sean Hogan, EPA). When these exceedances are excluded, the average annual estimated number of exceedances at Higley drops from 1.2 per year to 1.0 per year. The standard is attained when the estimated number of exceedances is less than or equal to one per year. See 40 CFR 50.6(a). However, even with the exclusion of the Higley data, the Phoenix nonattainment area is still in violation of the 24-hour PM–10 NAAQS based on the exceedances listed in Table 1 for the other four sites.

address all applicable requirements of the CAA, including sections 110(a), 172(c), 176(c) and 189(c)(1).

Because the applicable attainment date for both nonattainment areas was December 31, 2006, under section 189(d), the submittal deadline for the plans will be December 31, 2007.

IV. 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 in and of itself establishes no new requirements, it merely notes that the air quality in the Phoenix nonattainment area and the Owens Valley nonattainment area did not meet the federal health standard for PM–10 by the CAA deadline. 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 in and of itself establish new requirements, EPA believes that it is questionable whether a requirement to submit a SIP revision constitutes a federal mandate. The obligation for a State to revise its SIP arises out of sections 110(a), 179(d), and 189(d) of the CAA and is not legally enforceable by a court of law, and at most is a condition for continued receipt of highway funds. Therefore, it is possible to view an action requiring such a submittal as not creating any enforceable duty within the meaning of section 421(5)(9a)(I) of the Unfunded Mandates Reform Act (UMRA) (2 U.S.C. 658(a)(I)). Even if it did, the duty could be viewed as falling within the exception for the condition of Federal assistance under section 421(5)(a)(i)(I) of UMRA (2 U.S.C. 658(5)(a)(i)(I)). Therefore, today's action 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).

Several Indian tribes have reservations located within the boundaries of the Phoenix and Owens Valley nonattainment areas. EPA is responsible for the implementation of federal Clean Air Act programs in Indian country, including findings of failure to attain. EPA has notified the affected tribal officials and consulted with all interested tribes, as provided for by Executive Order 13175 (65 FR 67249, November 9, 2000). EPA contacted each tribe and gave them the opportunity to enter into consultation on a government-to-government basis. 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 does not in and of itself create any new requirements and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. 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. Because these findings of failure to attain are factual determinations based on air quality considerations, 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 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 August 6, 2007. 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, Carbon monoxide, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: May 24, 2007.

Jane Diamond,

Acting Regional Administrator, Region IX.

[FR Doc. E7–10857 Filed 6–5–07; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[EPA–R07–RCRA–2006–0923; FRL–8322–6]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Final Exclusion

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is granting a petition submitted by the Ford Motor Company Kansas City Assembly Plant (Ford) to exclude (or delist) a wastewater treatment plant (WWTP) sludge generated by Ford in Claycomo, Missouri, from the lists of hazardous wastes. This final rule responds to the petition submitted by Ford to delist F019 WWTP sludge generated from the facility's waste water treatment plant.

After careful analysis and use of the Delisting Risk Assessment Software (DRAS), EPA has concluded the petitioned waste is not hazardous waste. This exclusion applies to 2,000 cubic yards per year of the F019 WWTP sludge. Accordingly, this final rule excludes the petitioned waste from the requirements of hazardous waste regulations under the Resource Conservation and Recovery Act (RCRA) when it is disposed in a Subtitle D Landfill.

DATES: The final rule is effective on June 6, 2007.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–R07–RCRA–2006–0923. All documents in the docket are listed on www.regulations.gov Web site. Although listed in the index, some information is not publicly available,