

**DATES:** The public hearings will be held on August 19, 2010, August 26, 2010, and September 1, 2010.

**ADDRESSES:** The August 19, 2010 hearing will be held at the Wyndham, Chicago in the Grand Ballroom, Salon C located at 633 North St. Clair, Chicago, IL 60611; *Telephone:* 312-573-0300. The August 26, 2010, hearing will be held at the Radisson Plaza—Warwick Hotel Philadelphia in the Crystal Ballroom located at 1701 Locust Street, Philadelphia, PA 19103; *Telephone:* 215-735-6000. The September 1, 2010, hearing will be held at the Renaissance Downtown Atlanta located at 590 West Peachtree Street, NW., Atlanta, GA 30308; *Telephone:* 404-881-6000. The three public hearings will convene at 9 a.m. and continue until 8 p.m. (local time). The EPA will make every effort to accommodate all speakers that arrive and register before 8 p.m. A lunch break is scheduled from 12:30 p.m. until 2 p.m. and a dinner break is scheduled from 5 p.m. until 6:30 p.m. during the hearings. The EPA Web site for the rulemaking, which includes the proposal and information about the public hearings, can be found at: <http://www.epa.gov/airtransport>.

**FOR FURTHER INFORMATION CONTACT:** If you would like to present oral testimony at the public hearing, please contact Ms. Pamela Long, U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Air Quality Planning Division, (C504-03), Research Triangle Park, NC 27711, telephone (919) 541-0641, fax number (919) 541-5509, *e-mail address:* [long.pam@epa.gov](mailto:long.pam@epa.gov) (preferred method for registering), no later than 2 business days prior to each public hearing. The last day to register will be Tuesday, August 17, 2010, for the Chicago, Illinois, hearing, Tuesday, August 24, 2010, for the Philadelphia, Pennsylvania, hearing, and Monday, August 30, 2010, for the Atlanta, Georgia, hearing. If using e-mail, please provide the following information: Time you wish to speak (morning, afternoon, evening), name, affiliation, address, e-mail address, and telephone and fax numbers.

Questions concerning the August 2, 2010, proposed rule should be addressed to Mr. Tim Smith, U.S. EPA, Office of Air Quality Planning and Standards, Geographic Strategies Group, (C504-09), Research Triangle Park, NC 27711, telephone number (919) 541-4718, e-mail at [smith.tim@epa.gov](mailto:smith.tim@epa.gov).

**SUPPLEMENTARY INFORMATION:** These public hearings are to provide the public with an opportunity to present oral comments regarding EPA's proposed Transport Rule, which

identifies and limits emissions of nitrogen oxides and/or sulfur dioxide in 31 States and the District of Columbia that affect the ability of downwind States to attain and maintain compliance with the 1997 and 2006 fine particulate matter (PM<sub>2.5</sub>) national ambient air quality standards (NAAQS) and the 1997 ozone NAAQS.

*Public hearing:* The proposal for which EPA is holding the public hearings is published elsewhere in today's issue of the **Federal Register** and is available at: <http://www.epa.gov/airtransport> and also in the docket identified below. The public hearings will provide interested parties the opportunity to present data, views, or arguments concerning the proposal. The EPA may ask clarifying questions during the oral presentations, but will not respond to the presentations at that time. Written statements and supporting information submitted during the comment period will be considered with the same weight as any oral comments and supporting information presented at the public hearing. Written comments on the proposed rule must be postmarked by October 1, 2010.

Commenters should notify Ms. Long if they will need specific equipment, or if there are other special needs related to providing comments at the hearings. The EPA will provide equipment for commenters to show overhead slides or make computerized slide presentations if we receive special requests in advance. Oral testimony will be limited to 5 minutes for each commenter. The EPA encourages commenters to provide EPA with a copy of their oral testimony electronically (via e-mail or CD) or in hard copy form.

The hearing schedules, including lists of speakers, will be posted on EPA's Web site <http://www.epa.gov/airtransport>. Verbatim transcripts of the hearings and written statements will be included in the docket for the rulemaking.

EPA will make every effort to follow the schedule as closely as possible on the day of the hearings; however, please plan for the hearing to run either ahead of schedule or behind schedule.

#### **How can I get copies of this document and other related information?**

The EPA has established a docket for the proposed rule "Federal Implementation Plans to Reduce Interstate Transport of Fine Particulate Matter and Ozone" under Docket ID No. EPA-HQ-OAR-2009-0491 (available at <http://www.regulations.gov>).

As stated previously, the proposed rule was published in the **Federal Register** on August 2, 2010, and is

available at <http://www.epa.gov/airtransport> and in the above-cited docket.

Dated: July 26, 2010.

**Mary E. Henigin,**  
*Acting Director, Office of Air Quality Planning and Standards.*

[FR Doc. 2010-18780 Filed 7-30-10; 8:45 am]

**BILLING CODE 6560-50-P**

## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 52**

**[Docket No. EPA-R02-OAR-2009-0659; FRL-9183-4]**

### **Approval and Promulgation of Air Quality Implementation Plans; New York, New Jersey, and Connecticut; Determination of Attainment of the 1997 Fine Particle Standard**

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

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to determine that the New York-N. New Jersey-Long Island, NY-NJ-CT fine particle (PM<sub>2.5</sub>) nonattainment area has attained the 1997 annual fine particle National Ambient Air Quality Standard (NAAQS). This proposed determination is based upon quality assured, quality controlled, and certified ambient air monitoring data that shows the area has monitored attainment of the 1997 annual PM<sub>2.5</sub> NAAQS for the 2007-2009 monitoring period. If this proposed determination is made final, the requirements for this area to submit an attainment demonstration, reasonably available control measures, reasonable further progress plan, and contingency measures related to attainment of the 1997 PM<sub>2.5</sub> NAAQS shall be suspended for so long as the area continues to attain the 1997 annual PM<sub>2.5</sub> NAAQS.

**DATES:** Comments must be received on or before September 1, 2010.

**ADDRESSES:** Submit your comments, identified by Docket ID number EPA-R02-OAR-2009-0659, by one of the following methods:

- *www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *E-mail:* [Werner.Raymond@epa.gov](mailto:Werner.Raymond@epa.gov).
- *Fax:* 212-637-3901.
- *Mail:* Raymond Werner, Chief, Air Programs Branch, Environmental Protection Agency, Region 2 Office, 290 Broadway, 25th Floor, New York, New York 10007-1866.
- *Hand Delivery:* Raymond Werner, Chief, Air Programs Branch,

Environmental Protection Agency, Region 2 Office, 290 Broadway, 25th Floor, New York, New York 10007-1866. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30 excluding Federal holidays.

**Instructions:** Direct your comments to Docket ID No. EPA-R02-OAR-2009-0659. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at [www.regulations.gov](http://www.regulations.gov), 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 [www.regulations.gov](http://www.regulations.gov) or e-mail. The [www.regulations.gov](http://www.regulations.gov) Web site is an "anonymous access" system, which means 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 comment directly to EPA without going through [www.regulations.gov](http://www.regulations.gov) your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. 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. For additional information about EPA's public docket visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

**Docket:** All documents in the docket are listed in the <http://www.regulations.gov> index. 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, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy at the Environmental Protection Agency, Region II Office, Air Programs Branch, 290 Broadway, 25th Floor, New York, New York 10007-1866. EPA requests, if

at all possible, that you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view the hard copy of the docket. You may view the hard copy of the docket Monday through Friday, 8 a.m. to 4 p.m., excluding Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** If you have questions concerning today's proposed action related to New York or New Jersey, please contact Henry Feingersh, Air Programs Branch, Environmental Protection Agency, 290 Broadway, 25th Floor, New York, New York 10007-1866, telephone number (212)637-3382, fax number (212) 637-3901, e-mail [feingersh.henry@epa.gov](mailto:feingersh.henry@epa.gov).

If you have questions concerning today's proposed action related to Connecticut, please contact Alison C. Simcox, Air Quality Planning Unit, Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square-Suite 100, Mail Code OEP05-02, Boston, MA 02109-3912, telephone number (617) 918-1684, fax number (617) 918-0684, e-mail [simcox.alison@epa.gov](mailto:simcox.alison@epa.gov).

**SUPPLEMENTARY INFORMATION:** For detailed information regarding this proposal, EPA prepared a Technical Support Document (TSD). The TSD can be viewed at <http://www.regulations.gov>.

The following table of contents describes the format of this notice:

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### I. What Action Is EPA Proposing?

EPA is proposing to determine that the New York-N. New Jersey-Long Island, NY-NJ-CT PM<sub>2.5</sub> nonattainment area, referred to from this point forward as the NY-NJ-CT PM<sub>2.5</sub> nonattainment area, has attained the 1997 annual PM<sub>2.5</sub> NAAQS. This proposed determination is based upon quality-assured, quality-controlled, and certified ambient air monitoring data that show that the area has monitored attainment of the 1997 annual PM<sub>2.5</sub> NAAQS for the 2007-2009 monitoring period. The New York portion of the NY-NJ-CT PM<sub>2.5</sub> nonattainment area contains the counties of Bronx, Kings, Nassau, New York, Orange, Queens, Richmond, Rockland,<sup>1</sup> Suffolk, and Westchester.

<sup>1</sup> On July 7, 2009, the United States Court of Appeals for the DC Circuit rendered its decisions in the PM<sub>2.5</sub> Designations Litigation, *Catawba County, NC v. EPA*, 571 F.3d 20 (DC Cir. 2009). The

The New Jersey portion of the NY-NJ-CT PM<sub>2.5</sub> nonattainment area contains the counties of Bergen, Essex, Hudson, Mercer, Middlesex, Monmouth, Morris, Passaic, Somerset, and Union. The Connecticut portion of the NY-NJ-CT PM<sub>2.5</sub> nonattainment area includes the counties of Fairfield and New Haven.

### II. What Is the Effect of This Action?

If this determination is made final, under the provisions of EPA's PM<sub>2.5</sub> implementation rule (*see* 40 CFR 51.1004(c)), the requirements for the NY-NJ-CT PM<sub>2.5</sub> nonattainment area to submit an attainment demonstration, reasonably available control measures, reasonable further progress plan, and contingency measures related to attainment of the 1997 annual PM<sub>2.5</sub> NAAQS will be suspended for so long as the area continues to attain the 1997 annual PM<sub>2.5</sub> NAAQS.<sup>2</sup>

As further discussed below, the proposed determination, if finalized, would: (1) Suspend the requirements for the NY-NJ-CT PM<sub>2.5</sub> nonattainment area to submit an attainment demonstration, reasonably available control measures, reasonable further progress plan, and contingency measures related to attainment of the 1997 PM<sub>2.5</sub> NAAQS; (2) continue until such time, if any, that EPA subsequently determines that the area has violated the 1997 annual PM<sub>2.5</sub> NAAQS; (3) be separate from the designation determination or requirements for the NY-NJ-CT PM<sub>2.5</sub> nonattainment area based on the 2006 PM<sub>2.5</sub> NAAQS; and (4) remain in effect regardless of EPA's designation of this area as a nonattainment area for purposes of the 2006 PM<sub>2.5</sub> NAAQS. Furthermore, as described below, any such final determination would not be equivalent to the redesignation of the area to attainment based on the 1997 PM<sub>2.5</sub> NAAQS.

If this rulemaking is finalized and EPA subsequently determines, after notice-and-comment rulemaking in the **Federal Register**, that the area has violated the 1997 annual PM<sub>2.5</sub> NAAQS, the basis for the suspension of the specific requirements, set forth at 40 CFR 51.1004(c), would no longer exist, and the area would thereafter have to address the pertinent requirements.

Court denied all of the petitions for review except Rockland County, New York and remanded the designation of Rockland County to EPA for further explanation of its designation.

<sup>2</sup> New York, New Jersey, and Connecticut submitted their attainment demonstrations, reasonably available control measures, reasonable further progress plan and contingency measures SIP for this area on October 27, 2009, April 1, 2009, and November 18, 2008, respectively. EPA has not yet taken action on these submittals.

The determination that EPA proposes with this **Federal Register** action, that the air quality data shows attainment of the 1997 annual PM<sub>2.5</sub> NAAQS, is not equivalent to the redesignation of the area to attainment. This proposed action, if finalized, would not constitute a redesignation to attainment under section 107(d)(3) of the Clean Air Act (CAA), because we would not yet have approved a maintenance plan for the area as required under section 175A of the CAA, nor a determination that the area has met the other requirements for redesignation. The designation status of the area would remain nonattainment for the 1997 annual PM<sub>2.5</sub> NAAQS until such time as EPA determines that it meets the CAA requirements for redesignation to attainment.

This proposed action, if finalized, is limited to a determination that the NY–NJ–CT PM<sub>2.5</sub> nonattainment area has attained the 1997 annual PM<sub>2.5</sub> NAAQS. The 1997 PM<sub>2.5</sub> NAAQS became effective on September 16, 1997 (62 FR 38652, July 18, 1997) and are set forth at 40 CFR 50.7. The 2006 PM<sub>2.5</sub> NAAQS became effective on December 18, 2006 (71 FR 61144, Oct. 17, 2006) and are set forth at 40 CFR 50.13.<sup>3</sup> Effective December 14, 2009, EPA made designation determinations, as required by CAA section 107(d)(1), for the 2006 PM<sub>2.5</sub> NAAQS (74 FR 58688, Nov. 13, 2009). Of relevance to the proposed rulemaking herein, in 74 FR 58688 EPA clarified the designations for the 1997 PM<sub>2.5</sub> NAAQS by relabeling the existing designation tables to identify designations for the annual 1997 PM<sub>2.5</sub> NAAQS (*i.e.*, 15.0 µg/m<sup>3</sup>) and the 1997 24-hour PM<sub>2.5</sub> NAAQS (*i.e.*, 65 µg/m<sup>3</sup>).

This proposed determination that the NY–NJ–CT PM<sub>2.5</sub> nonattainment area has attained the annual 1997 PM<sub>2.5</sub> NAAQS, and any final determination, will have no effect on, and is not related to, the designation determination that EPA has made based on the 2006 PM<sub>2.5</sub>

NAAQS. Conversely, the designation based on the 2006 PM<sub>2.5</sub> NAAQS, will not have any effect on the determination proposed by this action.

If this proposed determination is made final and the NY–NJ–CT PM<sub>2.5</sub> nonattainment area continues to monitor attainment of the 1997 annual PM<sub>2.5</sub> NAAQS, the requirements for the area to submit attainment demonstrations, reasonably available control measures, reasonable further progress plans, and contingency measures related to attainment of the 1997 PM<sub>2.5</sub> NAAQS would remain suspended, even though EPA designated this area as a nonattainment area for purposes of the 2006 PM<sub>2.5</sub> NAAQS. Areas designated for the 2006 NAAQS will have to meet all applicable requirements for that designation.

**III. What Is the Background for This Action?**

On July 18, 1997 (62 FR 38652), EPA established a health-based PM<sub>2.5</sub> NAAQS at 15.0 micrograms per cubic meter (µg/m<sup>3</sup>) based on a 3-year average of annual mean PM<sub>2.5</sub> concentrations, and a 24-hour standard of 65 µg/m<sup>3</sup> based on a 3-year average of the 98th percentile of 24-hour concentrations. EPA established the standards based on significant evidence and numerous health studies demonstrating that serious health effects are associated with exposures to particulate matter. The process for designating areas following promulgation of a new or revised NAAQS is contained in section 107(d)(1) of the CAA. EPA and state air quality agencies initiated the monitoring process for the 1997 PM<sub>2.5</sub> NAAQS in 1999, and developed all air quality monitors by January 2001. On January 5, 2005, (70 FR 944), EPA published its air quality designations and classifications for the 1997 PM<sub>2.5</sub> NAAQS based upon air quality monitoring data from those monitors for calendar years 2001–2003.

These designations became effective on April 5, 2005.

On November 13, 2009, EPA clarified the designations for the 1997 PM<sub>2.5</sub> NAAQS (74 FR 58688), stating that the NY–NJ–CT PM<sub>2.5</sub> nonattainment area is designated nonattainment for the 1997 annual PM<sub>2.5</sub> NAAQS, and attainment/unclassifiable for the 1997 24-hour PM<sub>2.5</sub> NAAQS (see 40 CFR part 81.333). This proposed determination addresses the 1997 annual standard only. On April 25, 2007 (72 FR 20664), EPA promulgated its PM<sub>2.5</sub> implementation rule, codified at 40 CFR part 51, subpart Z, in which the Agency provided guidance for state and tribal plans to implement the 1997 PM<sub>2.5</sub> standard. This rule, at 40 CFR 51.1004(c), specifies some of the regulatory consequences of a determination of attainment of the standard.

**IV. What Is EPA’s Analysis of the Relevant Air Quality Data?**

EPA has reviewed the ambient air monitoring data for PM<sub>2.5</sub>, consistent with the requirements contained in 40 CFR part 50 and recorded in the EPA Air Quality System database for the NY–NJ–CT PM<sub>2.5</sub> nonattainment area from 2001 through the present time.

On the basis of that review, EPA has concluded that this area has attained the 1997 annual PM<sub>2.5</sub> NAAQS based on data for the 2007–2009 monitoring period.

Under EPA regulations at 40 CFR 50.7: The annual primary and secondary PM<sub>2.5</sub> standards are met when the annual arithmetic mean concentration, as determined in accordance with 40 CFR part 50, Appendix N, is less than or equal to 15.0 µg/m<sup>3</sup>.

Table 1 shows the design values by county (*i.e.*, the 3-year average of annual mean PM<sub>2.5</sub> concentrations) for the 1997 annual PM<sub>2.5</sub> NAAQS for the NY–NJ–CT PM<sub>2.5</sub> nonattainment area monitors for the years 2001 through 2009.

TABLE 1—DESIGN VALUES BY COUNTY FOR THE 1997 ANNUAL PM<sub>2.5</sub> NAAQS FOR THE NY-NJ-CT MONITORS IN MICROGRAMS PER CUBIC METER (µG/M<sup>3</sup>). THE STANDARD FOR THE 1997 ANNUAL PM<sub>2.5</sub> NAAQS IS 15.0 µG/M<sup>3</sup>

County	01–03 DV	02–04 DV	03–05 DV	04–06 DV	05–07 DV	06–08 DV	07–09 DV
Bronx .....	15.7	15.2	15.7	15.1	15.5	14.3	13.9
Kings .....	14.7	14.2	14.6	14.0	14.0	12.9	12.2
Nassau .....	12.2	11.7	12.1	11.5	11.4	10.9	10.3
New York <sup>4</sup> .....	17.5	16.7	17.0	15.7	15.9	14.9	14.0
Orange .....	11.5	11.1	11.4	10.8	10.8	10.0	9.3
Queens .....	INC	12.8	12.7	12.1	11.8	11.3	10.6
Richmond .....	12.0	11.5	11.8	13.4	13.2	12.4	11.6
Rockland .....	NM	NM	NM	NM	NM	NM	NM

<sup>3</sup> In response to legal challenges against the annual standard promulgated in 2006, the U.S. Court of Appeals for the District of Columbia remanded this standard to EPA for further

consideration. (*See American Farm Bureau Federation and National Pork Producers Council, et al. v. EPA*, 559 F.3d 512 (DC. Cir. 2009).) However, given that the 1997 and 2006 annual standards are

essentially identical, attainment of the 1997 annual standard would also signify attainment of the remanded 2006 annual standard.

TABLE 1—DESIGN VALUES BY COUNTY FOR THE 1997 ANNUAL PM<sub>2.5</sub> NAAQS FOR THE NY-NJ-CT MONITORS IN MICROGRAMS PER CUBIC METER (µG/M<sup>3</sup>). THE STANDARD FOR THE 1997 ANNUAL PM<sub>2.5</sub> NAAQS IS 15.0 µG/M<sup>3</sup>—Continued

County	01–03 DV	02–04 DV	03–05 DV	04–06 DV	05–07 DV	06–08 DV	07–09 DV
Suffolk .....	12.1	11.3	11.5	INC	INC	10.5	9.7
Westchester .....	12.3	11.7	11.9	11.6	11.7	11.2	10.6
Bergen .....	INC	12.8	13.3	12.8	13.2	12.2	11.3
Essex <sup>5</sup> .....	INC	13.5	INC	13.2	13.3	INC	INC
Hudson .....	14.7	14.3	14.7	14.1	14.0	14.1	13.1
Mercer .....	13.8	13.0	13.0	12.7	12.5	11.9	10.8
Middlesex .....	12.4	11.8	12.5	11.8	12.1	11.3	10.4
Monmouth .....	NM	NM	NM	NM	NM	NM	NM
Morris .....	INC	11.6	11.9	11.2	11.3	10.3	9.6
Passaic .....	INC	12.9	13.1	12.6	12.9	12.3	11.3
Somerset .....	NM	NM	NM	NM	NM	NM	NM
Union .....	15.5	15.3	15.5	14.8	14.4	13.6	12.6
Fairfield .....	13.1	12.7	13.3	13.2	13.2	12.4	11.3
New Haven .....	13.9	13.4	13.5	13.0	12.8	12.2	11.4

NM—No monitor located in county.

INC—All counties listed as INC for time period did not meet 75 percent data completeness requirement, and had not previously shown violations of the NAAQS from years 2001–2003 to present.

EPA's review of these data indicates that the NY-NJ-CT PM<sub>2.5</sub> nonattainment area has met and continues to meet the 1997 annual PM<sub>2.5</sub> NAAQS. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

#### V. How did EPA address missing data?

Data handling conventions and computations necessary for determining whether areas have met the PM<sub>2.5</sub> NAAQS, including requirements for data completeness, are listed in Appendix N of 40 CFR part 50. A year meets data completeness requirements when at least 75 percent of the scheduled sampling days for each quarter have valid data. The use of less than complete data is subject to the approval of EPA, which may consider factors such as monitoring site closures/

<sup>4</sup> The monitor in New York County located at Public School 59 (PS 59) was the highest reading monitor at the time EPA made designations for the 1997 PM<sub>2.5</sub> NAAQS on January 5, 2005. Midway through 2008, the monitor at PS 59 was shut down due to the demolition of the building site. Therefore, the data up until 2008 was from PS 59. Missing 2008 data had an effect on calculating the design value for the annual standard. EPA developed an alternative procedure to determine the design value for the annual standard. This procedure used data representative of PS 59 based on EPA's statistical analysis. A description of the alternate procedure can be found in Section V. Detailed information on this alternative procedure can be found in the Technical Support Document.

<sup>5</sup> The air monitor at the Newark Willis Center station in Essex County was discontinued on July 24, 2008 due to an unexpected loss of access, and replaced with a new monitor at the Newark Firehouse. PM<sub>2.5</sub> monitoring was established at the firehouse on May 13, 2009. Since three years of data was not collected at either monitoring site for 2006–08, and 2007–09, Essex County is listed as INC for the most recent three year periods.

moves, monitoring diligence, and nearby concentrations in determining whether to use such data as set forth at 40 CFR part 50, Appendix N, section 4.1(c).

The building on which the design value monitor (PS 59) for the NY-NJ-CT PM<sub>2.5</sub> nonattainment area was located was demolished midway through 2008. This was a planned shutdown and although New York could have shut it down at the beginning of the year, the state chose to continue it as long as possible to collect data. Unfortunately, the monitor at this location can not be replaced, because the roof of the new building is too far above sidewalk level to serve as a valid monitoring site under 40 CFR part 86 appendix E. NY and EPA tried but could not locate a suitable replacement monitoring site in the immediate vicinity of PS 59 that would also meet siting criteria.

A method was developed, therefore, to use less than complete data to determine if the design value monitor would be in attainment if it had continued to operate. The approach summarized in this section, and further described in the TSD, may or may not be appropriate for other areas with less than complete data. EPA will evaluate the appropriateness of this analytical approach for each area with less than complete data on a case-by-case basis.

#### Monitoring Network

EPA has determined that the PM<sub>2.5</sub> monitoring network for the NY–NJ–CT PM<sub>2.5</sub> nonattainment area is adequate. First, the number of monitors in the area far exceeds the minimum regulatory requirements. While three monitors are required in the nonattainment area, the

area currently has 39 monitoring locations. The States of New York, New Jersey, and Connecticut have been very diligent in the number and placement of PM<sub>2.5</sub> monitors in the nonattainment area. Secondly, EPA meets annually with each state to discuss any problems or issues concerning the State's air monitoring data and/or network. In addition, EPA and the States communicate many times during the year so that issues can be addressed as they show up. Thirdly, EPA regulations require states to submit annual network plans to their respective Regions. These plans outline the current networks and any proposed changes in the upcoming 18 months. Regions 1 and 2 have always been able to approve these plans due to the high quality of the New York, New Jersey and Connecticut monitoring networks. Copies of the approved annual network review letters can be seen in the TSD.

#### Methodology

The method used to determine the design value for PS 59 involves establishing a linear relationship between PS 59 and another site in the NY–NJ–CT PM<sub>2.5</sub> nonattainment area that has more complete data for the missing period and has a substantial number of samples in common over the period of interest. The monitor in the nonattainment area that had the highest correlation with PS 59 was used to develop a regression equation. The regression equation was used to estimate values for the missing quarters of data for PS 59. The design value for PS 59 was then calculated using the estimated values to fill in for the missing quarters. The estimated design

value was then analyzed using a bootstrapping statistical method. Bootstrapping involves the use of regression residuals and repeating the regression analysis 1,000 times. There were no exceedances of the NAAQS as a result of the bootstrapping analysis. The result of the analysis determined that the 2007–2009 design value for the NY–NJ–CT PM<sub>2.5</sub> nonattainment area would be 14.0 µg/m<sup>3</sup>.

## VI. Proposed Action

EPA is proposing to determine that the NY–NJ–CT PM<sub>2.5</sub> nonattainment area for the 1997 annual PM<sub>2.5</sub> NAAQS has attained the 1997 PM<sub>2.5</sub> NAAQS and continues to attain the standard based on data through 2009. As provided in 40 CFR 51.1004(c), if EPA finalizes this determination, it would suspend the requirements for this area to submit attainment demonstrations, reasonably available control measures, reasonable further progress plans, and contingency measures related to attainment of the 1997 annual PM<sub>2.5</sub> NAAQS so long as the area continues to attain the 1997 annual PM<sub>2.5</sub> NAAQS.

## VII. Statutory and Executive Order Reviews

This action proposes to make a determination based on air quality data, and would, if finalized, result in the suspension of certain Federal requirements. For that reason, this proposed 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 the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on Tribal governments or preempt Tribal law.

### List of Subjects in 40 CFR Part 52

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

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

Dated: July 22, 2010.

#### H. Curtis Spalding,

*Regional Administrator, Region 1.*

Dated: June 28, 2010.

#### Judith A. Enck,

*Regional Administrator, Region 2.*

[FR Doc. 2010–18885 Filed 7–30–10; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA–R09–OAR–2010–0596; FRL–9183–7]

### Revisions to the California State Implementation Plan

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve revisions to the San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD) portion of the California State Implementation Plan (SIP). These revisions concern oxides of nitrogen (NO<sub>x</sub>) emissions from boilers, steam generators and process heaters with a rated heat input from 0.75 to less than 2.0 MMBtu/hr. We are approving a local rule that regulates these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act). We are taking comments on this proposal and plan to follow with a final action.

**DATES:** Any comments must arrive by September 1, 2010.

**ADDRESSES:** Submit comments, identified by docket number EPA–R09–OAR–2010–0596, by one of the following methods:

1. *Federal eRulemaking Portal:* [www.regulations.gov](http://www.regulations.gov). Follow the online instructions.

2. *E-mail:* [steckel.andrew@epa.gov](mailto:steckel.andrew@epa.gov).

3. *Mail or deliver:* Andrew Steckel (Air–4), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

*Instructions:* All comments will be included in the public docket without change and may be made available online at [www.regulations.gov](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 [www.regulations.gov](http://www.regulations.gov) or e-mail. [www.regulations.gov](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 e-mail directly to EPA, your e-mail address will be automatically captured and included as part of the public comment. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

*Docket:* The index to the docket for this action is available electronically at [www.regulations.gov](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:** Idalia Pérez, EPA Region IX, (415) 972–3248, [perez.idalia@epa.gov](mailto:perez.idalia@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document, “we,” “us” and “our” refer to EPA.

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