

when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would establish controlled airspace at the Tucumcari VORTAC, Tucumcari, NM.

#### Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1E, "Environmental Impacts: Policies and Procedures" prior to any FAA final regulatory action.

#### List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air).

#### The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

#### PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for part 71 continues to read as follows:

**Authority:** 49 U.S.C. 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

##### § 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.9Y, Airspace Designations and Reporting Points, dated August 6, 2014, and effective September 15, 2014, is amended as follows:

*Paragraph 6006 En Route Domestic Airspace Areas.*

\* \* \* \* \*

#### ASW NM E6 Tucumcari, NM [New]

Tucumcari VORTAC, NM

Lat. 35°10'56" N., long. 103°35'55" W

That airspace extending upward from 1,200 feet above the surface within an area bounded by lat. 37°30'00" N., long. 102°33'00" W.; to lat. 36°30'00" N., long. 101°45'00" W.; to lat. 36°23'50" N., long. 101°28'20" W.; 35°12'30" N., long. 105°28'30" W.; to lat. 36°43'00" N., long. 105°20'30" W.; to lat. 36°43'00" N., long. 105°00'00" W.; thence to the point of beginning.

Issued in Fort Worth, TX, on November 24, 2014.

**Humberto Melendez,**

*Manager, Operations Support Group, ATO Central Service Center.*

[FR Doc. 2014–28793 Filed 12–8–14; 8:45 am]

**BILLING CODE 4901–14–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA–R09–OAR–2014–0708; FRL–9920–19–Region 9]

#### Clean Data Determination for 1997 PM<sub>2.5</sub> Standards; California—South Coast; Applicability of Clean Air Act Requirements

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

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to determine that the South Coast air quality planning area in California has attained the 1997 annual and 24-hour fine particle (PM<sub>2.5</sub>) National Ambient Air Quality Standards. This proposed determination is based upon complete (or otherwise validated), quality-assured, and certified ambient air monitoring data showing that the area has monitored attainment of the 1997 annual and 24-hour PM<sub>2.5</sub> standards based on the 2011–2013 monitoring period. The EPA is further proposing that, if the EPA finalizes this determination of attainment, the requirements for the area to submit certain State implementation plan revisions shall be suspended for so long as the area continues to attain the 1997 annual and 24-hour PM<sub>2.5</sub> standards.

**DATES:** Written comments must be received on or before January 8, 2015.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–R09–OAR–2014–0708 by one of the following methods:

1. Federal eRulemaking Portal, at [www.regulations.gov](http://www.regulations.gov), please follow the on-line instructions;
2. Email to [tax.wienke@epa.gov](mailto:tax.wienke@epa.gov); or
3. Mail or delivery to Wienke Tax, Air Planning Office, AIR–2, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, California 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 you consider to be CBI or otherwise protected should be clearly identified as such and should not be submitted through [www.regulations.gov](http://www.regulations.gov) or email. [www.regulations.gov](http://www.regulations.gov) is an "anonymous access" system, and the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email directly to EPA, your email address will be automatically captured and included as part of the public comment. If you submit an electronic comment, the 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 the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

**Docket:** The index to the docket for this action is available electronically at [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 at either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

#### FOR FURTHER INFORMATION CONTACT:

Wienke Tax, (415) 947–4192, or by email at [tax.wienke@epa.gov](mailto:tax.wienke@epa.gov).

#### SUPPLEMENTARY INFORMATION:

Throughout this document, "we", "us" or "our" refer to the EPA. We are providing the following outline to aid in locating information in this proposal.

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## I. What determination is the EPA proposing to make?

The EPA is proposing to determine that the Los Angeles–South Coast Air Basin (“South Coast”) nonattainment area has clean data for the 1997 annual and 24-hour National Ambient Air Quality Standards (NAAQS or “standards”) for fine particles (generally referring to particles less than or equal to 2.5 micrometers in diameter, PM<sub>2.5</sub>).<sup>1</sup> This determination is based upon complete (or otherwise validated), quality-assured, and certified ambient air monitoring data showing the area has monitored attainment of the 1997 annual and 24-hour PM<sub>2.5</sub> NAAQS based on 2011–2013 monitoring data.

Based on this proposed clean data determination, we are also proposing to suspend the obligations on the State of California to submit certain state implementation plan (SIP) revisions related to attainment of this standard for the area for as long as the area continues to attain the standard.

## II. What is the background for this action?

### A. PM<sub>2.5</sub> NAAQS

Under section 109 of the Clean Air Act (CAA or “Act”), the EPA has established NAAQS for certain pervasive air pollutants (referred to as “criteria pollutants”) and conducts periodic reviews of the NAAQS to determine whether they should be revised or whether new NAAQS should be established.

On July 1, 1987 (52 FR 24634), the EPA revised the particulate matter NAAQS, replacing the indicator of total suspended particulate matter (TSP) (*i.e.*, particles roughly 30 micrometers or less), with a new indicator that includes only those particles with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM<sub>10</sub>).

On July 18, 1997 (62 FR 38652), the EPA revised the NAAQS for particulate

matter by establishing new NAAQS for particles with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers (PM<sub>2.5</sub>). The EPA established primary and secondary annual and 24-hour standards for PM<sub>2.5</sub>.<sup>2</sup> The annual primary and secondary standards were set 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 the 24-hour primary and secondary standards were set at 65 µg/m<sup>3</sup>, based on the 3-year average of the 98th percentile of 24-hour PM<sub>2.5</sub> concentrations at each monitoring site within an area. See 40 CFR 50.7. Collectively, we refer herein to the 1997 24-hour and annual PM<sub>2.5</sub> NAAQS as the “1997 PM<sub>2.5</sub> NAAQS” or “1997 PM<sub>2.5</sub> standards.”

On October 17, 2006 (71 FR 61144), the EPA revised the level of the 24-hour PM<sub>2.5</sub> NAAQS to 35 µg/m<sup>3</sup>, and on January 15, 2013 (78 FR 3086), the EPA revised the annual PM<sub>2.5</sub> NAAQS to a level of 12 µg/m<sup>3</sup>. Even though the EPA has lowered the 24-hour and annual PM<sub>2.5</sub> standards, the original 1997 PM<sub>2.5</sub> standards remain in effect and represent the standards for which today's proposed attainment determination is made.

### B. South Coast PM<sub>2.5</sub> Designations, Classifications, and SIP Revisions

Effective April 5, 2005, the EPA established the initial air quality designations for the 1997 PM<sub>2.5</sub> NAAQS. See 70 FR 944 (January 5, 2005). The South Coast was designated nonattainment for the 1997 PM<sub>2.5</sub> NAAQS at this time, with an attainment deadline of April 5, 2010.<sup>3</sup>

Within three years of the effective date of designations, states with areas designated as nonattainment for the 1997 PM<sub>2.5</sub> NAAQS were required to submit SIP revisions that, among other elements, provide for implementation of reasonably available control measures (RACM), reasonable further progress (RFP), attainment of the standard as expeditiously as practicable but no later than five years from the nonattainment designation (in this instance, no later than April 5, 2010) unless the state

<sup>2</sup> For a given air pollutant, “primary” NAAQS are those determined by EPA as requisite to protect the public health, allowing an adequate margin of safety, and “secondary” standards are those determined by the EPA as requisite to protect the public welfare from any known or anticipated adverse effects associated with the presence of such air pollutant in the ambient air. See CAA section 109(b).

<sup>3</sup> Originally, the EPA designated nonattainment areas under subpart 1 of part D (of title I) of the CAA, not under subpart 4, but as discussed later in this document, the EPA has now established classifications for areas designated as nonattainment for the 1997 PM<sub>2.5</sub> under subpart 4.

justified up to a five-year attainment date extension, as well as contingency measures. See CAA section 172(a)(2), 172(c)(1), 172(c)(2), and 172(c)(9).

On November 28, 2007, the California Air Resources Board (CARB or State) submitted the “*Final 2007 Air Quality Management Plan, June 2007*” (“South Coast 2007 AQMP”), which was prepared by the South Coast Air Quality Management District (SCAQMD or District). The South Coast 2007 AQMP included a PM<sub>2.5</sub> attainment demonstration for the South Coast for the 1997 NAAQS. In order to meet relevant CAA requirements for the PM<sub>2.5</sub> NAAQS, the South Coast 2007 AQMP includes base and projected year PM<sub>2.5</sub> emissions inventories for the South Coast nonattainment area; air quality monitoring data; short-, medium- and long-term District control measures; a summary of CARB's control measures; transportation control measures (TCMs); a demonstration of reasonable further progress (RFP); a modeled attainment demonstration; a demonstration of reasonably available control measures/ reasonably available control technology (RACM/RACT); RFP and attainment contingency measures for the South Coast PM<sub>2.5</sub> nonattainment area; and a request to extend the attainment date for the 1997 PM<sub>2.5</sub> NAAQS to April 5, 2015.

To demonstrate attainment, the South Coast 2007 AQMP relied in part on measures in CARB's *State Strategy for California's 2007 State Implementation Plan* (“2007 State Strategy”). The 2007 State Strategy discussed CARB's overall approach to addressing, in conjunction with local plans, attainment of both the 1997 PM<sub>2.5</sub> and 8-hour ozone NAAQS not only in the South Coast nonattainment area, but also in California's other nonattainment areas, such as the San Joaquin Valley and the Sacramento area. It also included CARB's commitments to propose 15 defined State measures and to obtain specific amounts of aggregate emissions reductions of direct PM<sub>2.5</sub>, sulfur oxides (SO<sub>x</sub>), nitrogen oxides (NO<sub>x</sub>), and volatile organic compounds (VOC) in the South Coast from sources under the State's jurisdiction, such as on- and off-road motor vehicles, engines, and fuels.

On November 9, 2011, we approved the portions of the South Coast 2007 AQMP and 2007 State Strategy, as revised in 2009 and 2011, that addressed attainment of the 1997 PM<sub>2.5</sub> NAAQS in the South Coast PM<sub>2.5</sub> nonattainment area, except for the attainment contingency measures, which we disapproved. (see 76 FR 69928, November 9, 2011). On October 29, 2013, we approved SIP revisions addressing the attainment contingency

<sup>1</sup> The South Coast includes Orange County, the southwestern two-thirds of Los Angeles County, southwestern San Bernardino County, and western Riverside County (see 40 CFR 81.305).

measure requirements for the South Coast PM<sub>2.5</sub> nonattainment area (see 78 FR 64402, October 29, 2013).

*C. How does the EPA make attainment determinations?*

A determination of whether an area's air quality currently meets the PM<sub>2.5</sub> NAAQS is generally based upon the most recent three years of complete, quality-assured data gathered at established State and Local Air Monitoring Stations (SLAMS) in a nonattainment area and entered into the AQS database. Data from ambient air monitors operated by state/local agencies in compliance with the EPA monitoring requirements must be submitted to EPA's Air Quality System (AQS).<sup>4</sup> Monitoring agencies annually certify that these data are accurate to the best of their knowledge. Accordingly, the EPA relies primarily on data in AQS when determining the attainment status of areas. See 40 CFR 50.7; 40 CFR part 50, appendix L; 40 CFR part 53; 40 CFR part 58, and 40 CFR part 58, appendices A, C, D, and E. All data are reviewed to determine the area's air quality status in accordance with 40 CFR part 50, appendix N.

Under EPA regulations in 40 CFR part 50, section 50.7 and in accordance with appendix N, the 1997 annual PM<sub>2.5</sub> standard is met when the design value is less than or equal to 15.0 µg/m<sup>3</sup> (based on the rounding convention in 40 CFR part 50, appendix N) at each eligible monitoring site within the area.<sup>5</sup> Data completeness requirements for a given year are met when at least 75 percent of the scheduled sampling days for each quarter have valid data.

Under EPA regulations in 40 CFR part 50, section 50.7 and in accordance with appendix N, the 1997 24-hour PM<sub>2.5</sub> standard is met when the design value is less than or equal to 65 µg/m<sup>3</sup> (based on the rounding convention in 40 CFR part 50, appendix N) at each eligible monitoring site within the area.<sup>6</sup> Data completeness requirements for a given year are met when at least 75 percent of the scheduled sampling days for each quarter have valid data.

<sup>4</sup> The Air Quality System (AQS) is EPA's repository of ambient air quality data.

<sup>5</sup> The annual PM<sub>2.5</sub> standard design value is the 3-year average of annual mean concentration, and the 1997 annual PM<sub>2.5</sub> NAAQS is met when the annual standard design value at each eligible monitoring site is less than or equal to 15.0 µg/m<sup>3</sup>.

<sup>6</sup> The 24-hour PM<sub>2.5</sub> standard design value is the 3-year average of annual 98th percentile 24-hour average values recorded at each eligible monitoring site, and the 1997 24-hour PM<sub>2.5</sub> NAAQS is met when the 24-hour standard design value at each monitoring site is less than or equal to 65 µg/m<sup>3</sup>.

**III. What is EPA's analysis of the relevant air quality data?**

*A. Monitoring Network and Data Considerations*

The SCAQMD is the governmental agency with the authority and responsibility under state law for collecting ambient air quality data within the South Coast nonattainment area. Annually, SCAQMD submits monitoring network plans to EPA. These plans discuss the status of the air monitoring network, as required under 40 CFR part 58. The EPA reviews these annual network plans for compliance with the applicable reporting requirements in 40 CFR 58.10. With respect to PM<sub>2.5</sub>, we have found that SCAQMD's annual network plans meet the applicable requirements under 40 CFR part 58.7 Furthermore, we concluded in our *Technical System Audit Report* concerning SCAQMD's ambient air quality monitoring program that SCAQMD's ambient air monitoring network currently meets or exceeds the requirements for the minimum number of monitoring sites designated as SLAMS for PM<sub>2.5</sub> in the South Coast nonattainment area.<sup>8</sup> Also, SCAQMD annually certifies that the data it submits to AQS are quality-assured.<sup>9</sup>

The SCAQMD operated 18 PM<sub>2.5</sub> SLAMS during the 2011–2013 period within the South Coast PM<sub>2.5</sub> nonattainment area. Nine of the sites are located in the Los Angeles County portion of the South Coast (Azusa, Burbank, Los Angeles (Main Street), Reseda, Compton, Pico Rivera, Pasadena, Long Beach (North), and South Long Beach); four are located in the San Bernardino County portion of the South Coast (Ontario Fire Station, Fontana, Big Bear, and San Bernardino); three are located in the Riverside portion of the South Coast (Riverside (Magnolia), Rubidoux, and Mira Loma (Van Buren)); and two are located in Orange County (Anaheim and Mission Viejo).<sup>10</sup>

For the purposes of this proposed action, we have reviewed the data for the most recent three-year period (2011–

2013) for completeness, and we determined that the data collected by the SCAQMD meets the completeness criterion for all 12 quarters at most PM<sub>2.5</sub> monitoring sites. Of the 18 PM<sub>2.5</sub> monitoring sites, five monitoring sites did not meet the 75% completeness requirements in 40 CFR part 50, appendix N, section 4.1 and 4.2(b) for the annual and 24-hour PM<sub>2.5</sub> standards, respectively. Specifically, the Pasadena, Riverside (Magnolia), Ontario Fire Station, Big Bear, and San Bernardino monitoring sites had less than 75% data completeness in one or more quarters during the 2011–2013 period.

For the Riverside (Magnolia), Ontario Fire Station, Big Bear, and San Bernardino monitoring sites, the EPA has performed the maximum quarterly value data substitution test procedure in 40 CFR part 50, appendix N, section 4.1(c)(ii) and 4.2(c)(ii) for the annual and 24-hour standards, respectively, and determined that these monitoring sites pass the data substitution diagnostic test for both the annual and 24-hour standards.<sup>11</sup> The EPA concludes that the design values for these monitoring sites are valid for NAAQS comparison purposes.

The remaining monitoring site, Pasadena, is not eligible for the maximum quarterly value data substitution test due to having less than 50% completeness during the first quarter of 2011, the fourth quarter of 2012, and the first and second quarters of 2013. The provisions in 40 CFR part 50, appendix N, section 4.1(c)(ii) and 4.2(c)(ii) state that, if any quarter has less than 50% data capture, then the substitution test cannot be used. While the Pasadena monitoring site is not eligible for the substitution test, per 40 CFR part 50, appendix N, section 4.1(d) and 4.2(d), the design value may also be considered valid with the approval of the EPA Administrator, who may consider factors such as monitoring site closures/moves, monitoring diligence, the consistency and levels of the daily values that are available, and nearby concentrations in determining whether to use such data.

The Pasadena monitoring site had 47% completeness in the first quarter of 2011 due to poor quality assurance results and sampler operational issues, and 71% completeness in the third quarter of 2012 due to multiple different sampler operational issues and site

<sup>7</sup> See, e.g., letter from Meredith Kurpius, Manager, Air Quality Analysis Office, EPA Region IX, to Dr. Matt Miyasato, Deputy Executive Officer, SCAQMD, dated September 30, 2014.

<sup>8</sup> EPA Region IX, Technical System Audit Report, South Coast Air Quality Management District, September 24–25, 2013, dated September 2014.

<sup>9</sup> See, e.g., letter from Dr. Matt Miyasato, Deputy Executive Officer, SCAQMD, to Jared Blumenfeld, Regional Administration, EPA Region IX, dated May 1, 2014.

<sup>10</sup> Please see figure 8 in appendix A of SCAQMD's *Annual Air Quality Monitoring Network Plan* (July 2014) for a map showing PM<sub>2.5</sub> ambient monitoring locations.

<sup>11</sup> Please see files entitled "Maximum Quarterly Value Data Substitution Test for the 24-hour 1997 p.m.2.5 NAAQS" and "Maximum Quarterly Value Data Substitution Test for the Annual 1997 p.m.2.5 NAAQS" for documentation regarding the maximum quarterly value data substitution test in the docket for today's proposed action.

operator error. Beginning in the fourth quarter of 2012 through the second quarter of 2013, the Pasadena site had less than 50% completeness due to site repairs (*i.e.* SCAQMD was working to replace the monitoring site shelter from mid-November 2012 until the beginning of June 2013).

Per 40 CFR part 50, appendix N, section 4.1(d) and 4.2(d), the EPA evaluated the location of the Pasadena monitoring site relative to the historical design value site for the area, the historical annual and 24-hour PM<sub>2.5</sub> design values trends over the past 12 years at nearby monitoring sites, and causes of incomplete data when determining whether the 2011–2013 design value at the Pasadena monitoring site could be considered valid for the purposes of this action. First, the Pasadena monitoring site is not located near the previous and current design value sites for the area. Historically, the Rubidoux and the Mira Loma (Van Buren) monitoring sites have been the design value sites for the area for both the annual and 24-hour PM<sub>2.5</sub> NAAQS. The Rubidoux monitoring site was the design value site for both the annual and 24-hour PM<sub>2.5</sub> NAAQS from 2001 to 2006, while the Mira Loma (Van Buren) monitoring site was the design value site for both the annual and 24-hour PM<sub>2.5</sub> NAAQS from 2006 to 2013. The Pasadena monitoring site is located in the center of Los Angeles County, while the Rubidoux and Mira Loma (Van Buren) monitoring sites are located approximately 38 miles to the east in Riverside County, where higher values are typically measured.

Second, an assessment of the long-term trends at the Pasadena monitoring site and nearby monitoring sites shows nearby sites have design values below both the annual and 24-hour 1997 PM<sub>2.5</sub> NAAQS and the Pasadena monitoring site has the lowest design value compared to these nearby sites. For example, during the 2001 to 2013 period, the Pasadena monitoring site has consistently measured lower design values for both the annual and 24-hour PM<sub>2.5</sub> NAAQS than the Azusa, Burbank, Pico Rivera (AQS ID: 06–037–1601), Pico Rivera #2, and Los Angeles (Main Street) monitoring sites, which are all located within an approximately 12-mile radius from the Pasadena monitoring site. These four sites all have complete annual and 24-hour design values below the 1997 NAAQS for the 2011–2013 period and provide appropriate characterization of air quality for the area surrounding the Pasadena monitoring site.

Based on the location of the Pasadena monitoring site and the historical design

value concentrations relative to both the annual and 24-hour 1997 PM<sub>2.5</sub> NAAQS at the site and nearby locations, the incomplete data should not preclude the EPA from determining the area has attained the NAAQS. Therefore, we consider the PM<sub>2.5</sub> data set for the 2011–2013 period from the Pasadena monitor to be valid for the purposes of determining whether the area has attained the standards.

For the reasons discussed above, we consider the PM<sub>2.5</sub> data set for 2011–2013 from the 18 PM<sub>2.5</sub> monitoring sites to be valid for the purposes of determining whether the area has attained the standards.

#### B. Monitoring Method Considerations

The monitoring requirements are specified by regulation in 40 CFR part 58. These requirements are applicable to State, and where delegated, local air monitoring agencies that operate criteria pollutant monitors. In section 4.7 of appendix D to 40 CFR part 58, the EPA specifies minimum monitoring requirements for PM<sub>2.5</sub> to operate at State and Local Air Monitoring Stations (SLAMS). SLAMS produce data comparable to the NAAQS, and therefore, the monitor must be an approved federal reference method (FRM), federal equivalent method (FEM), or approved regional method (ARM). The minimum number of SLAMS required is described in section 4.7.1, and can be met by either filter-based or continuous FRMs or FEMs. The monitoring regulations also provide that each core-based statistical area (CBSA) must operate a minimum number of PM<sub>2.5</sub> continuous monitors (section 4.7.2); however, this requirement can be met by either an FEM or a non-FEM continuous monitor, and the continuous monitors can be located with other SLAMS or at a different location. Consequently, the monitoring requirements for PM<sub>2.5</sub> can be met with a filter-based FRMs/FEMs, continuous FEMs, continuous non-FEMs, or a combination of monitors at each required SLAMS.

In 2006, the EPA published performance criteria and field testing requirements for approval of PM<sub>2.5</sub> continuous FEMs and PM<sub>2.5</sub> continuous ARMs in 40 CFR part 53. Subsequently, several PM<sub>2.5</sub> continuous monitors have been approved<sup>12</sup> as FEMs. As monitoring agencies implemented PM<sub>2.5</sub> continuous FEMs in their networks, the EPA assessed the available data from these monitors and included a summary

<sup>12</sup> The EPA maintains a list of designated FRMs and FEMs on the web at: <http://www.epa.gov/ttn/amtic/criteria.html>.

of that assessment in the PM Policy Assessment in April of 2011.<sup>13</sup>

Recognizing that in some cases monitoring agencies were still testing and working to optimize the performance of their PM<sub>2.5</sub> continuous FEMs, but were beyond the 24-month period that allows data from an approved method to be set aside using the provisions described in 40 CFR 58.20 on Special Purpose Monitoring (SPMs), the EPA proposed and finalized a new provision to allow PM<sub>2.5</sub> FEM data to be considered not eligible for comparison to the NAAQS under certain conditions, even if more than 24 months of data are collected.

This provision was part of the PM NAAQS final rule published on January 15, 2013 (78 FR 3086), and included criteria for monitoring agencies to use, if they choose, that allow for PM<sub>2.5</sub> continuous FEM or ARM data to be set aside and not used for determining NAAQS calculations, if certain performance criteria are not met (40 CFR 58.11(e)).

This provision to allow PM<sub>2.5</sub> continuous FEM data to be excluded from comparison to the NAAQS is applicable, when in accordance with Annual Monitoring Network Plan provisions described in 40 CFR 58.10(b)(13), the monitoring agency has assessed the data to determine if it meets the criteria described in 40 CFR 58.11(e), and has also sought and received approval from the applicable EPA Regional office.

As noted above, the SCAQMD operated 18 PM<sub>2.5</sub> SLAMS within the South Coast during the 2011–2013 period. At these sites, SCAQMD operates manual filter-based FRMs to measure PM<sub>2.5</sub>. At seven of the 18 sites, SCAQMD also measured PM<sub>2.5</sub> using (automated) continuous FEM monitors: Anaheim, Burbank, Los Angeles (Main Street), Long Beach (North), South Long Beach, Rubidoux, and Mira Loma (Van Buren). SCAQMD's primary purpose in operating the continuous FEM monitors at these sites is to support forecasting and reporting of the Air Quality Index (AQI). However, under EPA's monitoring regulations, data from continuous FEM monitors is generally considered valid for NAAQS comparison purposes, unless the applicable monitoring agency justifies excluding the data for NAAQS comparison purposes under 40 CFR 58.11(e).

<sup>13</sup> EPA Office of Air Quality Planning and Standards, Policy Assessment for the Review of the Particulate Matter National Ambient Air Quality Standards, EPA 452/R–11–003, April 2011. This report is available at: [http://www.epa.gov/ttn/naaqs/standards/pm/s\\_pm\\_2007\\_pa.html](http://www.epa.gov/ttn/naaqs/standards/pm/s_pm_2007_pa.html).

In this instance, as part of its 2013 and 2014 annual air quality monitoring network plans, SCAQMD requested that the data from the continuous FEM monitors at the seven monitoring sites in the PM<sub>2.5</sub> monitoring network be considered not eligible for comparison to the NAAQS.<sup>14</sup> The EPA evaluated SCAQMD's request per 40 CFR 58.11(e), confirmed that the acceptable bias criteria were not met during the 2010–2012 and 2011–2013 periods, and therefore approved the request for the continuous FEM monitor data from the sites listed above to be considered not eligible for comparison to the NAAQS.<sup>15</sup> As a result, the monitoring data presented in the next section of this document reflects data collected by filter-based PM<sub>2.5</sub> FRMs operated by the

SCAQMD at the 18 PM<sub>2.5</sub> SLAMS within the South Coast.

*C. Evaluation of Current Attainment*

EPA's evaluation of whether the South Coast PM<sub>2.5</sub> nonattainment area has attained the 1997 annual and 24-hour PM<sub>2.5</sub> NAAQS is based on our review of the monitoring data and takes into account the adequacy of the PM<sub>2.5</sub> monitoring network in the nonattainment area and the reliability of the data collected by the network as discussed in the previous sections of this document.

Table 1 and table 2 show the annual and 24-hour PM<sub>2.5</sub> design values, respectively, at each of the 18 SLAMS monitoring sites within the South Coast nonattainment area for the most recent three-year period (2011–2013). The data

show that the design value for the 2011–2013 period was equal to or less than 65 µg/m<sup>3</sup> (for the 24-hour standard) and 15.0 µg/m<sup>3</sup> (for the annual standard) at all monitors. Therefore, we are proposing to determine, based on complete (or otherwise validated), quality-assured, and certified data for 2011–2013, that the South Coast area has attained the 1997 annual and 24-hour PM<sub>2.5</sub> standards. At the present time, AQS includes no PM<sub>2.5</sub> data for year 2014 for the South Coast, but several quarters of preliminary data are expected to be uploaded to AQS prior to EPA's final action on the proposed determination of attainment. The EPA will review the preliminary 2014 data prior to taking final action to ensure that they are consistent with the determination of attainment.

TABLE 1—2011–2013 ANNUAL PM<sub>2.5</sub> DESIGN VALUES FOR THE SOUTH COAST NONATTAINMENT AREA

General location	Site (AQS ID)	Annual mean (µg/m <sup>3</sup> )			2011–2013 annual design values (µg/m <sup>3</sup> )
		2011	2012	2013	
<b>LOS ANGELES COUNTY:</b>					
East San Gabriel Valley .....	Azusa (06–037–0002) .....	12.1	11.0	10.5	11.2
East San Fernando Valley .....	Burbank (06–037–1002) .....	13.2	12.2	12.1	12.5
Central Los Angeles .....	Los Angeles (Main St.) (06–037–1103).	13.0	12.6	12.0	12.5
West San Fernando Valley .....	Reseda (06–037–1201) .....	10.2	10.5	9.9	10.2
South Central Los Angeles County.	Compton (06–037–1302) .....	13.0	11.7	12.0	12.2
South San Gabriel Valley .....	Pico Rivera #2 (06–037–1602) .....	12.5	11.9	11.8	12.0
West San Gabriel Valley .....	Pasadena (06–037–2005) .....	* 10.8	* 10.1	* 10.2	10.4
South Coastal Los Angeles County.	Long Beach (North) (06–037–4002)	11.0	10.4	11.3	10.9
South Coastal Los Angeles County.	South Long Beach (06–037–4004) ..	10.7	10.6	11.0	10.8
<b>ORANGE COUNTY:</b>					
Central Orange County .....	Anaheim (06–059–0007) .....	11.0	10.8	10.1	10.6
Saddleback Valley .....	Mission Viejo (06–059–2022) .....	8.5	7.9	8.1	8.2
<b>RIVERSIDE COUNTY:</b>					
Metropolitan Riverside County ..	Riverside (Magnolia) (06–065–1003)	11.8	* 11.4	11.3	11.5
Metropolitan Riverside County ..	Rubidoux (06–065–8001) .....	13.6	13.5	12.5	13.2
Mira Loma .....	Mira Loma (Van Buren) (06–065–8005).	15.3	15.1	14.1	14.8
<b>SAN BERNARDINO COUNTY:</b>					
Southwest San Bernardino Valley.	Ontario Fire Station (06–071–0025)	13.3	12.4	* 12.0	12.6
Central San Bernardino Valley ..	Fontana (06–071–2002) .....	12.6	12.8	12.3	12.6
East San Bernardino Mountains	Big Bear (06–071–8001) .....	8.4	* 8.0	9.7	8.7
Central San Bernardino Valley ..	San Bernardino (06–071–9004) .....	* 12.2	11.8	11.4	11.8

**Note:** The annual standard is set at 15.0 µg/m<sup>3</sup>. Annual values not meeting completeness criteria are marked with an asterisk (\*\*\*) but, as discussed above, the EPA has determined that the data is valid for the NAAQS comparison purposes.

**Source:** EPA, Design Value Report, October 6, 2014.

TABLE 2—2011–2013 24-HOUR PM<sub>2.5</sub> DESIGN VALUES FOR THE SOUTH COAST NONATTAINMENT AREA

General location	Site (AQS ID)	98th Percentile (µg/m <sup>3</sup> )			2011–2013 24-hour design values (µg/m <sup>3</sup> )
		2011	2012	2013	
<b>LOS ANGELES COUNTY:</b>					

<sup>14</sup> See appendix C ("PM<sub>2.5</sub> Continuous Monitor Comparability Assessment and Request for Waiver") of SCAQMD's *Annual Air Quality Monitoring Network Plan* (July 2013); and appendix

C with the same title of SCAQMD's *Annual Air Quality Monitoring Network Plan* (July 2014).

<sup>15</sup> See letter, Meredith Kurpius, Manager, Air Quality Analysis Office, Air Division, EPA Region

9, to Jason Low, Ph.D., South Coast Air Quality Management District, dated September 9, 2014.

TABLE 2—2011–2013 24-HOUR PM<sub>2.5</sub> DESIGN VALUES FOR THE SOUTH COAST NONATTAINMENT AREA—Continued

General location	Site (AQS ID)	98th Percentile (µg/m <sup>3</sup> )			2011–2013 24-hour design values (µg/m <sup>3</sup> )
		2011	2012	2013	
East San Gabriel Valley .....	Azusa (06–037–0002) .....	30.6	25.6	26.4	28
East San Fernando Valley .....	Burbank (06–037–1002) .....	33.5	28.2	30.4	31
Central Los Angeles .....	Los Angeles (Main St.) (06–037–1103).	31.5	32.0	29.0	31
West San Fernando Valley .....	Reseda (06–037–1201) .....	23.6	31.2	23.0	26
South Central Los Angeles County.	Compton (06–037–1302) .....	31.5	30.3	24.3	29
South San Gabriel Valley .....	Pico Rivera #2 (06–037–1602) .....	31.5	28.5	28.7	30
West San Gabriel Valley .....	Pasadena (06–037–2005) .....	*29.8	*25.7	*20.5	25
South Coastal Los Angeles County.	Long Beach (North) (06–037–4002)	27.8	26.5	26.1	27
South Coastal Los Angeles County.	South Long Beach (06–037–4004) ..	26.6	25.6	24.6	26
<b>ORANGE COUNTY:</b>					
Central Orange County .....	Anaheim (06–059–0007) .....	28.1	25.0	22.7	25
Saddleback Valley .....	Mission Viejo (06–059–2022) .....	28.8	17.6	17.5	21
<b>RIVERSIDE COUNTY:</b>					
Metropolitan Riverside County ..	Riverside (Magnolia) (06–065–1003)	28.0	*26.8	29.2	28
Metropolitan Riverside County ..	Rubidoux (06–065–8001) .....	31.0	33.7	34.6	33
Mira Loma .....	Mira Loma (Van Buren) (06–065–8005).	36.6	35.1	37.5	36
<b>SAN BERNARDINO COUNTY:</b>					
Southwest San Bernardino Valley.	Ontario Fire Station (06–071–0025)	35.3	28.6	*26.8	30
Central San Bernardino Valley ..	Fontana (06–071–2002) .....	28.2	35.6	33.1	32
East San Bernardino Mountains	Big Bear (06–071–8001) .....	30.6	*27.4	35.1	31
Central San Bernardino Valley ..	San Bernardino (06–071–9004) .....	*32.5	27.1	33.4	31

**Note:** The 24-hour standard is set at 65 µg/m<sup>3</sup>. Daily values not meeting completeness criteria are marked with an asterisk (“\*”) but, as discussed above, the EPA has determined that the data is valid for the NAAQS comparison purposes.

**Source:** EPA, Design Value Report, October 6, 2014.

#### IV. What is the effect of a determination of attainment for the 1997 PM<sub>2.5</sub> NAAQS under subpart 4 of the Clean Air Act?

This section of the EPA’s proposal addresses the effects of a final determination of attainment for the South Coast nonattainment area.

For the 1997 PM<sub>2.5</sub> standard, 40 CFR 51.1004(c) of the EPA’s Implementation Rule embodies the EPA’s “Clean Data Policy” interpretation under subpart 1. The provisions of section 51.1004(c) set forth the effects of a determination of attainment for the 1997 PM<sub>2.5</sub> standard.<sup>16</sup> 72 FR 20585, 20665 (April 25, 2007).

On January 4, 2013, in *Natural Resources Defense Council v. EPA*, the DC Circuit remanded to the EPA the

<sup>16</sup> Title 40, Code of Federal Regulations, section 51.1004(c) states: “Upon a determination by EPA that an area designated nonattainment for the PM<sub>2.5</sub> NAAQS has attained the standard, the requirements for such area to submit attainment demonstrations and associated reasonably available control measures, reasonable further progress plans, contingency measures and other planning SIPs related to attainment of the PM<sub>2.5</sub> NAAQS shall be suspended until such time as the area is redesignated to attainment, at which time the requirements no longer apply; or EPA determines that that area has violated the PM<sub>2.5</sub> NAAQS, at which time the area is again required to submit such plans.”

“Final Clean Air Fine Particle Implementation Rule” (72 FR 20586, April 25, 2007) and the “Implementation of the New Source Review (NSR) Program for Particulate Matter Less than 2.5 Micrometers (PM<sub>2.5</sub>)” final rule (73 FR 28321, May 16, 2008) (collectively, “1997 PM<sub>2.5</sub> Implementation Rule” or “Implementation Rule”). 706 F.3d 428 (D.C. Cir. 2013). The Court found that the EPA erred in implementing the 1997 PM<sub>2.5</sub> NAAQS pursuant solely to the general implementation provisions of subpart 1 of part D of title I of the CAA, rather than the particulate-matter-specific provisions of subpart 4 of part D of title I. The Court remanded the EPA’s Implementation Rule for further proceedings consistent with the Court’s decision.

In light of the Court’s decision and its remand of the Implementation Rule, the EPA in this proposed rulemaking addresses the effect of a final determination of attainment for the South Coast nonattainment area as a moderate nonattainment area under subpart 4.<sup>17</sup> As set forth in more detail

<sup>17</sup> In response to the court’s ruling, the EPA published a final rule on June 2, 2014 classifying all 1997 and 2006 PM<sub>2.5</sub> areas as moderate, and setting a December 31, 2014 deadline for submittal

below, under the EPA’s Clean Data Policy interpretation, a determination that the area has attained the standard suspends the State’s obligation to submit attainment-related plan revisions under subpart 4 (and the applicable provisions of subpart 1) for so long as the area continues to attain the standard. These include requirements to submit an attainment demonstration, RFP, RACM, and contingency measures, because the purpose of these provisions is to help reach attainment, a goal which has already been achieved.

##### A. Background for the Clean Data Policy

Over the past two decades, the EPA has consistently applied its “Clean Data Policy” interpretation to attainment-related provisions of subparts 1, 2 and 4. The Clean Data Policy is the subject of several EPA memoranda and regulations. In addition, numerous individual rulemakings published in the **Federal Register** have applied the interpretation to a spectrum of NAAQS, including the 1-hour and 1997 ozone, PM<sub>10</sub>, PM<sub>2.5</sub>, CO and lead standards. The DC Circuit has upheld the Clean Data Policy interpretation as embodied in

of any remaining subpart 4 SIP requirements (see 79 FR 31566, June 2, 2014).

EPA's 8-hour ozone implementation rule, 40 CFR 51.918.<sup>18</sup> *Natural Resources Defense Council v. EPA*, 571 F. 3d 1245 (D.C. Cir. 2009). Other U.S. Circuit Courts of Appeals that have considered and reviewed EPA's Clean Data Policy interpretation have upheld it and the rulemakings applying EPA's interpretation. *Sierra Club v. EPA*, 99 F.3d 1551 (10th Cir. 1996); *Sierra Club v. EPA*, 375 F.3d 537 (7th Cir. 2004); *Our Children's Earth Foundation v. EPA*, N. 04-73032 (9th Cir. June 28, 2005 (Memorandum Opinion)), *Latino Issues Forum, v. EPA*, Nos. 06-75831 and 08-71238 (9th Cir. March 2, 2009 (Memorandum Opinion)).

As noted above, the EPA incorporated its Clean Data Policy interpretation in both its 1997 8-hour ozone implementation rule (40 CFR 51.918) and in its PM<sub>2.5</sub> Implementation Rule (40 CFR 51.1004(c)). 70 FR 71612, 71702 (November 29, 2005) (1997 8-hour ozone) and 72 FR 20585, 20665 (April 25, 2007)(1997 PM<sub>2.5</sub>). While the DC Circuit, in its January 4, 2013 decision, remanded the 1997 PM<sub>2.5</sub> Implementation Rule, the court did not address the merits of that regulation, nor cast doubt on the EPA's existing interpretation of the statutory provisions.

However, in light of the Court's decision, we set forth here the EPA's Clean Data Policy interpretation under subpart 4, for the purpose of identifying the effects of a determination of attainment for the 1997 PM<sub>2.5</sub> standard for the South Coast nonattainment area. The EPA has previously articulated its Clean Data interpretation under subpart 4 in implementing the 2006 PM<sub>2.5</sub> and the PM<sub>10</sub> standard. *See, e.g.*, 78 FR 41901 (July 12, 2013) and 78 FR 54394 (September 4, 2013) (proposed and final determination of attainment of the 2006 PM<sub>2.5</sub> standard in West Central Pinal area, Arizona); 75 FR 27944 (May 19, 2010) (determination of attainment of the PM<sub>10</sub> standard in Coso Junction, California); 71 FR 6352 (February 8, 2006) (determination of attainment of the PM<sub>10</sub> standard in Ajo, Arizona); 71 FR 13021 (March 14, 2006) (determination of attainment of the PM<sub>10</sub> standard in Yuma, Arizona); 71 FR 44920 (August 8, 2006) (determination of attainment of the PM<sub>10</sub> standard in Rillito, Arizona); 71 FR 63642 (October 30, 2006) (determination of attainment of the PM<sub>10</sub> standard in San Joaquin Valley, California); and 72 FR 14422 (March 28, 2007) (determination of

attainment of the PM<sub>10</sub> standard in Miami, Arizona). Thus, the EPA has established that, under subpart 4, an attainment determination suspends the obligations to submit an attainment demonstration, RACM, RFP, contingency measures, and other measures related to attainment.

#### *B. Application of the Clean Data Policy to the Attainment-Related Provisions of Subpart 4*

In the EPA's proposed and final rulemakings determining that the San Joaquin Valley nonattainment area attained the PM<sub>10</sub> standard, the EPA set forth at length its rationale for applying the Clean Data Policy to PM<sub>10</sub> under subpart 4. The Ninth Circuit upheld EPA's final rulemaking, and specifically EPA's Clean Data Policy, in the context of subpart 4. *Latino Issues Forum v. EPA*, Nos. 06-75831 and 08-71238 (9th Cir. March 2, 2009 (Memorandum Opinion)). In rejecting petitioner's challenge to the Clean Data Policy under subpart 4 for PM<sub>10</sub>, the Ninth Circuit stated, "As the EPA explained, if an area is in compliance with PM<sub>10</sub> standards, then further progress for the purpose of ensuring attainment is not necessary."

The general requirements of subpart 1 apply in conjunction with the more specific requirements of subpart 4, to the extent they are not superseded or subsumed by the subpart 4 requirements. Subpart 1 contains general air quality planning requirements for areas designated as nonattainment. *See* section 172(c). Subpart 4 itself contains specific planning and scheduling requirements for PM<sub>10</sub> nonattainment areas, and under the Court's January 4, 2013 decision in *Natural Resources Defense Council v. EPA*, these same statutory requirements also apply for PM<sub>2.5</sub> nonattainment areas. The EPA has longstanding general guidance that interprets the 1990 amendments to the CAA, making recommendations to states for meeting the statutory requirements for SIPs for nonattainment areas. *See*, "State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990," 57 FR 13498 (April 16, 1992) (the "General Preamble"). In the General Preamble, the EPA discussed the relationship of subpart 1 and subpart 4 SIP requirements, and pointed out that subpart 1 requirements were to an extent "subsumed by, or integrally related to, the more specific PM<sub>10</sub> requirements." 57 FR 13538 (April 16, 1992). These subpart 1 requirements include, among other things, provisions for attainment demonstrations, RACM,

RFP, emissions inventories, and contingency measures.

The EPA has long interpreted the provisions of part D, subpart 1 of the Act (sections 171 and 172) as not requiring the submission of RFP for an area already attaining the ozone NAAQS. For an area that is attaining, showing that the State will make RFP towards attainment "will, therefore, have no meaning at that point." 57 FR at 13564. *See* 71 FR 40952 and 71 FR 63642 (proposed and final determination of attainment for San Joaquin Valley); 75 FR 13710 and 75 FR 27944 (proposed and final determination of attainment for Coso Junction).

Section 189(c)(1) of subpart 4 states that:

Plan revisions demonstrating attainment submitted to the Administrator for approval under this subpart shall contain quantitative milestones which are to be achieved every 3 years until the area is redesignated attainment and which demonstrate reasonable further progress, as defined in section [section 171(1)] of this title, toward attainment by the applicable date.

With respect to RFP, section 171(1) states that, for purposes of part D, RFP "means such annual incremental reductions in emissions of the relevant air pollutant as are required by this part or may reasonably be required by the Administrator for the purpose of ensuring attainment of the applicable [NAAQS] by the applicable date." Thus, whether dealing with the general RFP requirement of section 172(c)(2), the ozone-specific RFP requirements of sections 182(b) and (c), or the specific RFP requirements for PM<sub>10</sub> areas of part D, subpart 4, section 189(c)(1), the stated purpose of RFP is to ensure attainment by the applicable attainment date.

Although section 189(c) states that revisions shall contain milestones, which are to be achieved until the area is redesignated to attainment, such milestones are designed to show reasonable further progress "toward attainment by the applicable attainment date," as defined by section 171. Thus, it is clear that once the area has attained the standard, no further milestones are necessary or meaningful. This interpretation is supported by language in section 189(c)(3), which mandates that a State that fails to achieve a milestone must submit a plan that assures that the State will achieve the next milestone or attain the NAAQS if there is no next milestone. Section 189(c)(3) assumes that the requirement to submit and achieve milestones does not continue after attainment of the NAAQS.

<sup>18</sup> The EPA's "Final Rule to Implement the 8-hour Ozone National Ambient Air Quality Standard—Phase 2," 70 FR 71612, 71645-46 (November 29, 2005).

In the General Preamble, we noted with respect to section 189(c) that the purpose of the milestone requirement “is ‘to provide for emission reductions adequate to achieve the standards by the applicable attainment date’ (H.R. Rep. No. 490, 101st Cong., 2d Sess. 267 (1990)).” 57 FR 13539 (April 16, 1992). If an area has in fact attained the standard, the stated purpose of the RFP requirement will have already been fulfilled.<sup>19</sup>

Similarly, the requirements of section 189(c)(2) with respect to milestones no longer apply so long as an area has attained the standard. Section 189(c)(2) provides in relevant part that:

Not later than 90 days after the date on which a milestone applicable to the area occurs, each State in which all or part of such area is located shall submit to the Administrator a demonstration . . . that the milestone has been met.

Where the area has attained the standard and there are no further milestones, there is no further requirement to make a submission showing that such milestones have been met. This is consistent with the position that the EPA took with respect to the general RFP requirement of section 172(c)(2) in the April 16, 1992 General Preamble and also in the May 10, 1995 Seitz memorandum<sup>20</sup> with respect to the requirements of section 182(b) and (c). In the May 10, 1995 Seitz memorandum, the EPA also noted that section 182(g), the milestone requirement of subpart 2, which is analogous to provisions in section 189(c), is suspended upon a determination that an area has attained. The memorandum, also citing additional provisions related to

attainment demonstration and RFP requirements, stated:

Inasmuch as each of these requirements is linked with the attainment demonstration or RFP requirements of section 182(b)(1) or 182(c)(2), if an area is not subject to the requirement to submit the underlying attainment demonstration or RFP plan, it need not submit the related SIP revision either.

1995 Seitz memorandum at page 5.

With respect to the attainment demonstration requirements of section 172(c) and section 189(a)(1)(B), an analogous rationale leads to the same result. Section 189(a)(1)(B) requires that the plan provide for “a demonstration (including air quality modeling) that the [SIP] will provide for attainment by the applicable attainment date. . . .” As with the RFP requirements, if an area is already monitoring attainment of the standard, The EPA believes there is no need for an area to make a further submission containing additional measures to achieve attainment. This is also consistent with the interpretation of the section 172(c) requirements provided by the EPA in the General Preamble, the Page memorandum,<sup>21</sup> and the section 182(b) and (c) requirements set forth in the Seitz memorandum. As the EPA stated in the General Preamble, no other measures to provide for attainment would be needed by areas seeking redesignation to attainment since “attainment will have been reached.” 57 FR at 13564.

Other SIP submission requirements are linked with these attainment demonstration and RFP requirements, and similar reasoning applies to them. These requirements include the contingency measure requirements of sections 172(c)(9). We have interpreted the contingency measure requirements of section 172(c)(9) (and section 182(c)(9) for ozone) as no longer applying when an area has attained the standard because those “contingency measures are directed at ensuring RFP and attainment by the applicable date.” 57 FR at 13564; Seitz memorandum, pages 5–6.

CAA section 172(c)(9) provides that SIPs in nonattainment areas “shall provide for the implementation of specific measures to be undertaken if the area fails to make reasonable further progress, or to attain the [NAAQS] by the attainment date applicable under this part. Such measures shall be included in the plan revision as

contingency measures to take effect in any such case without further action by the State or [EPA].” This contingency measure requirement is inextricably tied to the reasonable further progress and attainment demonstration requirements. Contingency measures are implemented if reasonable further progress targets are not achieved, or if attainment is not realized by the attainment date. Where an area has already achieved attainment by the attainment date, it has no need to rely on contingency measures to come into attainment or to make further progress to attainment. As the EPA stated in the General Preamble: “The section 172(c)(9) requirements for contingency measures are directed at ensuring RFP and attainment by the applicable date.” See 57 FR 13564. Thus these requirements no longer apply when an area has attained the standard.

Both sections 172(c)(1) and 189(a)(1)(C) require “provisions to assure that reasonably available control measures” (*i.e.*, RACM) are implemented in a nonattainment area. The General Preamble, 57 FR at 13560 (April 16, 1992), states that the EPA interprets section 172(c)(1) so that RACM requirements are a “component” of an area’s attainment demonstration. Thus, for the same reason the attainment demonstration no longer applies by its own terms, the requirement for RACM no longer applies. The EPA has consistently interpreted this provision to require only implementation of potential RACM measures that could contribute to reasonable further progress or to attainment. General Preamble, 57 FR at 13498. Thus, where an area is already attaining the standard, no additional RACM measures are required.<sup>22</sup> The EPA is interpreting section 189(a)(1)(C) consistent with its interpretation of section 172(c)(1).

The suspension of the obligations to submit SIP revisions concerning these RFP, attainment demonstration, RACM, contingency measures and other related requirements exists only for as long as the area continues to monitor attainment of the standard. If the EPA determines, after notice-and-comment rulemaking, that the area has monitored a violation of the NAAQS, the basis for the requirements being suspended would no longer exist. In that case, the area would again be subject to a

<sup>19</sup> Thus, we believe that it is a distinction without a difference that section 189(c)(1) speaks of the RFP requirement as one to be achieved until an area is “redesignated attainment,” as opposed to section 172(c)(2), which is silent on the period to which the requirement pertains, or the ozone nonattainment area RFP requirements in sections 182(b)(1) or 182(c)(2), which refer to the RFP requirements as applying until the “attainment date,” since section 189(c)(1) defines RFP by reference to section 171(1) of the Act. Reference to section 171(1) clarifies that, as with the general RFP requirements in section 172(c)(2) and the ozone-specific requirements of section 182(b)(1) and 182(c)(2), the PM-specific requirements may only be required “for the purpose of ensuring attainment of the applicable national ambient air quality standard by the applicable date.” 42 U.S.C. 7501(1). As discussed in the text of this rulemaking, the EPA interprets the RFP requirements, in light of the definition of RFP in section 171(1), and incorporated in section 189(c)(1), to be a requirement that no longer applies once the standard has been attained.

<sup>20</sup> Memorandum from John S. Seitz, Director, EPA Office of Air Quality Planning and Standards, “Reasonable Further Progress, Attainment Demonstration, and Related Requirements for Ozone Nonattainment Areas Meeting the Ozone National Ambient Air Quality Standard,” dated May 10, 1995 (“Seitz memorandum”).

<sup>21</sup> Memorandum from Stephen D. Page, Director, EPA Office of Air Quality Planning and Standards, “Clean Data Policy for the Fine Particle National Ambient Air Quality Standards,” December 14, 2004 (“Page memorandum”).

<sup>22</sup> The EPA’s interpretation that the statute requires implementation only of RACM measures that would advance attainment was upheld by the United States Court of Appeals for the Fifth Circuit (*Sierra Club v. EPA*, 314 F.3d 735, 743–745 (5th Cir. 2002)), and by the United States Court of Appeals for the DC Circuit (*Sierra Club v. EPA*, 294 F.3d 155, 162–163 (D.C. Cir. 2002)).



requirement to submit the pertinent SIP revision or revisions and would need to address those requirements. Thus, a final determination that the area need not submit one of the pertinent SIP submittals amounts to no more than a suspension of the requirements for so long as the area continues to attain the standard. Only if and when the EPA redesignates the area to attainment would the area be relieved of these submission obligations. Attainment determinations under the Clean Data Policy do not shield an area from obligations unrelated to attainment in the area, such as provisions to address pollution transport.

As set forth above, based on our proposed determination that the South Coast area is currently attaining the 1997 PM<sub>2.5</sub> NAAQS, we propose to find that the obligations to submit any remaining attainment-related provisions that may be necessary to satisfy the requirements applicable to moderate areas under subpart 4 of part D (of title I of the Act) are suspended for so long as the area continues to monitor attainment of the 1997 PM<sub>2.5</sub> NAAQS. If, in the future, the EPA determines after notice-and-comment rulemaking that the area again violates the 1997 annual or 24-hour PM<sub>2.5</sub> NAAQS, the basis for suspending any remaining SIP obligations would no longer apply.

#### V. EPA's Proposed Action and Request for Public Comment

The EPA proposes to determine, based on the most recent three years (2011–2013) of complete (or otherwise validated), quality-assured, and certified data meeting the requirements of 40 CFR part 50, appendix N, that the South Coast PM<sub>2.5</sub> nonattainment area has attained the 1997 annual and 24-hour PM<sub>2.5</sub> NAAQS.

In conjunction with and based upon our proposed determination that the South Coast area has attained and is currently attaining the standard, the EPA proposes to determine that the obligation to submit any remaining attainment-related SIP revisions arising from classification of the South Coast as a moderate nonattainment area under subpart 4 of part D (of title I of the Act) for the 1997 PM<sub>2.5</sub> NAAQS is not applicable for so long as the area continues to attain the 1997 PM<sub>2.5</sub> NAAQS. These attainment-related requirements include, but are not limited to, the part D, subpart 4 obligations to provide an attainment demonstration pursuant to section 189(a)(1)(B), the RACM provisions of section 189(a)(1)(C), and the RFP provisions of section 189(c). This proposed action, if finalized, would not

constitute a redesignation to attainment under CAA section 107(d)(3).

The EPA is soliciting public comments on the issues discussed in this document or on other relevant matters. We will accept comments from the public on this proposal for the next 30 days. We will consider these comments before taking final action.

#### VI. Statutory and Executive Order Reviews

This action proposes to make a determination of attainment based on air quality and to suspend certain federal requirements, and thus, would not impose additional requirements beyond those imposed by state law. 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 the EPA with the discretionary authority to address disproportionate human health or environmental effects with practical, appropriate, and legally permissible methods under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed action does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP obligations discussed herein do not apply to Indian tribes and thus this proposed action 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, Incorporation by reference, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: November 20, 2014.

**Jared Blumenfeld,**

*Regional Administrator, Region IX.*

[FR Doc. 2014–28709 Filed 12–8–14; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 80

[EPA–HQ–OAR–2013–0479; FRL–9919–92–OAR]

### Delay in Issuing 2014 Standards for the Renewable Fuel Standard Program

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

**ACTION:** Notification of delay in issuing standards.

**SUMMARY:** The Environmental Protection Agency (EPA) is announcing that it will not be finalizing 2014 applicable percentage standards under the Renewable Fuel Standard (RFS) program before the end of 2014. In light of this delay in issuing the 2014 RFS standards, the compliance demonstration deadline for the 2013 RFS standards will take place in 2015. EPA will be making modifications to the EPA-Moderated Transaction System (EMTS) to ensure that Renewable Identification Numbers (RINs) generated in 2012 are valid for demonstrating compliance with the 2013 applicable standards.

**DATES:** December 9, 2014.

**FOR FURTHER INFORMATION CONTACT:** Julia MacAllister, Office of Transportation and Air Quality, Assessment and Standards Division, Environmental Protection Agency, 2000 Traverwood Drive, Ann Arbor, MI 48105; Telephone number: (734) 214–4131; Fax number: (734) 214–4816; Email address: [macallister.julia@epa.gov](mailto:macallister.julia@epa.gov).

**SUPPLEMENTARY INFORMATION:** On November 29, 2013, at 78 FR 71732, EPA published a notice of proposed rulemaking to establish the 2014 RFS standards.<sup>1</sup> The proposal has generated significant comment and controversy, particularly about how volumes should

<sup>1</sup> 78 FR 71732, November 29, 2013.