EPA APPROVED REGULATIONS IN THE TEXAS SIP

State citation	Title/subject	State approval/submittal date	EPA approval date	Explanation
*	*	*	*	*
Chapter 101—General Air Quality Rules				
Subchapter A—General Rules				
*	*	*	*	*
Section 101.28	Stringency Determination for Federal Operating Permits.	12/1/1999	9–10–13 [Insert FR page number where document begins].	
*	*	*	*	*
Chapter 122—Federal Operating Permits Program				
*	*	*	*	*
Subchapter C—Initial Permit Issuances, Revisions, Reopening, and Renewals				
Division 2—Permit Revisions				
Section 122.215	Minor Permit Revisions	5/9/2001	9–10–13 [Insert FR page number where document begins].	
Section 122.216	Applications for Minor Permit Revisions	5/9/2001	9–10–13 [Insert FR page number where document begins].	
Section 122.217	Procedures for Minor Permit Revisions	11/20/2002	9–10–13 [Insert FR page number where document begins].	
Section 122.218	Minor Permit Revision Procedures for Permit Revisions Involving the Use of Economic Incentives, Marketable Permits, and Emissions Trading.	5/9/2001	9–10–13 [Insert FR page number where document begins].	

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[FR Doc. 2013–21868 Filed 9–9–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2012–0800; FRL–9900–69-Region9]

Determination of Attainment for the Chico Nonattainment Area for the 2006 Fine Particle Standard; California; Determination Regarding Applicability of Clean Air Act Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is taking final action to determine that the Chico nonattainment area in Butte County, California has attained the 2006 24-hour fine particle ($PM_{2.5}$) National Ambient Air Quality Standard (NAAQS or standard). This determination is based upon complete, quality-assured, and certified ambient air monitoring data showing that this area has monitored attainment of the 2006 24-hour $PM_{2.5}$ NAAQS based on the 2010–2012 monitoring period. Based on the above determination, the requirements for this area to submit an attainment demonstration, together with reasonably available control measures, a reasonable further progress (RFP) plan, and contingency measures for failure to meet RFP and attainment deadlines are suspended for so long as the area continues to attain the 2006 24-hour $PM_{2.5}$ NAAQS.

DATES: This rule is effective on October 10, 2013.

ADDRESSES: EPA has established docket number EPA–R09–OAR–2012–0800 for this action. Generally, documents in the docket for this action are available electronically at *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 at *www.regulations.gov,* some information may be publicly available only at the hard copy location (e.g., copyrighted material, large maps, multi-volume reports), and some may not be publicly available in either location (e.g., Confidential Business Information). 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: John Ungvarsky, (415) 972–3963, or by email at *ungvarsky.john@epa.gov*.

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

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I. Summary of EPA's Proposed Action

On October 30, 2012 (77 FR 65651), EPA proposed to determine that the Chico nonattainment area in California has attained the 2006 24-hour NAAQS for fine particles (generally referring to particles less than or equal to 2.5 micrometers in diameter, $PM_{2.5}$). The 2006 24-hour $PM_{2.5}$ NAAQS is 35 micrograms per cubic meter ($\mu g/m^3$), based on a 3-year average of the 98th percentile of 24-hour concentrations. The Chico $PM_{2.5}$ nonattainment area includes the southwestern two-thirds of Butte County, California. Butte County lies in the central portion of northern California's Sacramento Valley Air Basin, which stretches from Sacramento County in the south to Shasta County in the north.

In our proposed rule, we explained how EPA makes an attainment determination for the 2006 24-hour $PM_{2.5}$ NAAQS by reference to complete, quality-assured, and certified data gathered at a State and Local Air Monitoring Station(s) (SLAMS) and entered into EPA's Air Quality System (AQS) database and by reference to 40 CFR 50.13 (''National primary and secondary ambient air quality standards for $PM_{2.5}$'') and appendix N to [40 CFR] part 50 (''Interpretation of the National Ambient Air Quality Standards for $PM_{2.5}$''). EPA proposed the determination of attainment for the Chico nonattainment area based upon a review of the monitoring network and the ambient air quality data collected at the monitoring sites during the 2009–2011 period. The monitoring network in the area is operated by the California Air Resources Board (CARB). Based on these reviews, EPA found that complete, quality-assured and certified data for the Chico nonattainment area showed that the 24-hour design value for the 2009–2011 period was equal to or less than 35 μ/m^3 at the area's SLAMs monitor site.

Since publication of our October 30, 2012 proposal, CARB has entered data into AQS for the final two quarters of 2012 and the first quarter of 2013, and has certified the data for 2012.[1] Thus, we now have complete, quality-assured, and certified data for 2010–2012.

Because we make determinations of attainment based on the most recent three years of complete, quality-assured and certified data, we have updated the proposed determination of attainment (which had been based on 2009–2011 data) to reflect the 2010–2012 period. Specifically, we have updated table 1 (shown below) from the proposed rule to reflect the data for 2012. As shown in table 1, the design value (34 $\mu g/m^3$) in the Chico nonattainment area for the 2010–2012 period is less than 35 $\mu g/m^3$ and thus shows that the area has attained the 2006 24-hour $PM_{2.5}$ standard. Therefore, we are taking final action today to determine that the Chico nonattainment area has attained the 2006 24-hour $PM_{2.5}$ standard based on complete, quality-assured and certified data for 2010–2012. Preliminary data for 2013 (not shown in table 1 but included in the docket for this action) show that the area continues to attain the standard.

TABLE 1—2009–2012 24-HOUR $PM_{2.5}$ MONITORING SITE AND DESIGN VALUES FOR THE CHICO NONATTAINMENT AREA.

Monitoring site[a]	AQS site identification No.	98th percentile ($\mu g/m^3$)				Design values ($\mu g/m^3$)	
		2009	2010	2011	2012[b]	2009–2011	2010–2012[b]
Chico-Manzanita	06–007–0002	30.0	29.0	46.2	26.3	35	34
Chico-East	06–007–0008						

[a] The Chico monitoring site was moved in 2012 to address siting issues, and EPA has approved this network modification request. See August 22, 2013 letter from Meredith Kurpius, Manager, Air Quality Analysis Office, EPA Region IX, to Michael Benjamin, Chief, Monitoring and Laboratory Division, CARB.

[b] The 2012 98th percentile and design value are calculated using January 1 through June 30, 2012 data from the Chico-Manzanita site and July 1 through December 31, 2012 data from the new Chico-East site.

Source: AQS Design Value and Raw Data Reports, August 9, 2013.

In our proposed rule, based on the proposed determination of attainment, we also proposed to apply EPA's Clean Data Policy to the 2006 $PM_{2.5}$ NAAQS and thereby suspend the requirements for this area to submit an attainment demonstration and associated reasonably available control measures (RACM), a reasonable further progress (RFP) plan, and contingency measures for so long as the area continues to attain the 2006 24-hour $PM_{2.5}$ NAAQS. See pages 65653–65655 of our October 30, 2012 proposed rule. In proposing to apply the Clean Data Policy to the 2006 24-hour $PM_{2.5}$ NAAQS, we explained how we are applying the same statutory interpretation with respect to the implications of clean data determinations that the Agency has long applied in regulations for the 1997 8-hour ozone and $PM_{2.5}$ NAAQS and in individual rulemakings for the 1-hour ozone, PM_{10} and lead NAAQS. *See* 78 FR 65651, at 65654 (October 30, 2012).

EPA notes that on January 4, 2013, in *Natural Resources Defense Council* v. *EPA,* the D.C. Circuit remanded to EPA the ''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 ($PM_{2.5}$)'' final rule (73 FR 28321, May 16, 2008) (collectively, ''1997 $PM_{2.5}$ Implementation Rule'' or ''Implementation Rule''). 706 F.3d 428 (D.C. Cir. 2013). While the D.C. Circuit, in its January 4, 2013 decision, remanded the 1997 $PM_{2.5}$ Implementation Rule to EPA to re-promulgate the Implementation Rule pursuant to subpart 4,[2] the court did not address the merits of that regulation, nor cast doubt on EPA's interpretation of the statutory provisions under its Clean Data Policy.

EPA has taken the Court's decision into consideration in evaluating the effects of a determination of attainment for the Chico nonattainment area under subpart 4, in addition to subpart 1.[3] Pursuant to EPA's Clean Data Policy interpretation, a determination that the area has attained the standard suspends the State's obligation to submit attainment-related planning requirements of subpart 4 (as well as the applicable provisions of subpart 1) for so long as the area continues to attain the standard. These include requirements to submit an attainment

[1] See letter from Sylvia Vanderspek, Chief, Air Quality Data Branch, Planning and Technical Support Division, CARB, to Jared Blumenfeld, Regional Administrator, U.S. EPA Region IX, certifying calendar year 2012 ambient air quality data and quality assurance data, May 16, 2013.

[2] EPA established the Implementation Rule pursuant to subpart 1 (''Nonattainment Areas in General'') of part D (''Plan Requirements for Nonattainment Areas'') of title I of the CAA. Subpart 4 (''Additional Provisions for Particulate Matter Nonattainment Areas'') includes more prescriptive SIP nonattainment area requirements than those set forth in subpart 1.

[3] For the purposes of evaluating the effects of this determination of attainment under subpart 4, we are considering Chico to be a ''moderate'' $PM_{2.5}$ nonattainment area. Under section 188 of the CAA, all areas designated nonattainment areas under subpart 4 would initially be classified by operation of law as ''moderate'' nonattainment areas, and would remain moderate nonattainment areas unless and until EPA reclassifies the area as a ''serious'' nonattainment area. Accordingly, the evaluation of the potential impact of subpart 4 requirements is limited to those applicable to moderate nonattainment areas. Sections 189(a) and (c) of subpart 4 apply to moderate nonattainment areas and include: an attainment demonstration (section 189(a)(1)(B)); provisions for RACM (section 189(a)(1)(C)); and quantitative milestones demonstrating RFP toward attainment by the applicable attainment date (section 189(c)). In addition, EPA also evaluates the applicable requirements of subpart 1.

demonstration, RFP, RACM, and contingency measures, because the purpose of these provisions is to help reach attainment, a goal that has already been achieved. Thus, under both subpart 1 and subpart 4, a determination of attainment suspends a state's obligations to submit attainment-linked planning requirements for so long as the area continues in attainment.

EPA has long applied its Clean Data interpretation under subpart 4 in implementing the PM_{10} standard.[4] In EPA's proposed and final rulemakings determining that the San Joaquin Valley nonattainment area attained the PM_{10} standard, EPA set forth at length its rationale for applying the Clean Data Policy to 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,* supra. Nos. 06–75831 and 08–71238 (9th Cir.), Memorandum Opinion, March 2, 2009. In rejecting petitioner's challenge to the Clean Data Policy under subpart 4 for PM_{10}, the Ninth Circuit stated, ''As the EPA explained, if an area is in compliance with PM_{10} standards, then further progress for the purpose of ensuring attainment is not necessary.''

EPA is determining, based on the most recent three years of complete, quality-assured data meeting the requirements of 40 CFR part 50, appendix N, that the Chico nonattainment area is currently attaining the 2006 24-hour $PM_{2.5}$ NAAQS. In conjunction with and based upon our determination that Chico nonattainment area has attained and is currently attaining the standard, EPA is also determining that the obligation to submit the following attainment-related planning requirements is not applicable for so long as the area continues to attain the $PM_{2.5}$ standard: 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); the RFP provisions of section 189(c); and the related attainment demonstration, RACM, RFP and contingency measure provisions requirements of subpart 1, section 172. This determination does not constitute a redesignation to attainment under CAA section 107(d)(3).

Please see the October 30, 2012 proposed rule for more detailed information concerning the $PM_{2.5}$ NAAQS, designations of $PM_{2.5}$ nonattainment areas, the regulatory basis for determining attainment of the NAAQS, the Chico nonattainment area's $PM_{2.5}$ monitoring network, and EPA's review and evaluation of the data.

II. Public Comments

EPA's proposed rule provided a 30-day public comment period. We received no comments.

III. EPA's Final Action

For the reasons provided in the proposed rule and summarized herein, EPA is taking final action to determine that the Chico nonattainment area in California has attained the 2006 24-hour $PM_{2.5}$ NAAQS based on three years of complete, quality-assured, and certified data in AQS for 2010–2012. Preliminary data for 2013 show that this area continues to attain the NAAQS.

EPA is also taking final action, based on the above determination of attainment, to suspend the requirements for the Chico nonattainment area to submit an attainment demonstration and associated RACM, a RFP plan, contingency measures, and any other planning SIPs related to attainment of the 2006 24-hour $PM_{2.5}$ NAAQS for so long as the area continues to attain the 2006 24-hour $PM_{2.5}$ NAAQS. EPA's final action is consistent and in keeping with its long-held interpretation of CAA requirements, as well as with EPA's regulations for similar determinations for ozone (*see* 40 CFR 51.918) for the 1997 8-hour ozone and in individual rulemakings for the 1-hour ozone, PM_{10} and lead NAAQS.

Today's final action does not constitute a redesignation of the Chico nonattainment area to attainment for the 2006 24-hour $PM_{2.5}$ NAAQS under CAA section 107(d)(3) because we have not yet approved a maintenance plan for the Chico nonattainment area as meeting the requirements of section 175A of the CAA or determined that the area has met the other CAA requirements for redesignation. The classification and designation status in 40 CFR part 81 remain nonattainment for this area until such time as EPA determines that California has met the CAA requirements for redesignating the Chico nonattainment area to attainment.

If the Chico nonattainment area continues to monitor attainment of the 2006 24-hour $PM_{2.5}$ NAAQS, the requirements for the area to submit an attainment demonstration and associated RACM, a RFP plan, contingency measures, and any other planning requirements related to attainment of the 2006 24-hour $PM_{2.5}$ NAAQS will remain suspended. If after today's action EPA subsequently determines, after notice-and-comment rulemaking in the **Federal Register,** that the area has violated the 2006 24-hour $PM_{2.5}$ NAAQS, the basis for the suspension of the attainment planning requirements for the area would no longer exist, and the area would thereafter have to address such requirements.

IV. Statutory and Executive Order Reviews

This final action makes a determination of attainment based on air quality and suspends certain federal requirements, and thus, this action would not impose additional requirements beyond those imposed by state law. For this reason, the final 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 disproportionate human health or environmental effects with practical, appropriate, and legally permissible

[4] See, e.g., 75 FR 6571 (February 10, 2010) (Baton Rouge, Louisiana area); 71 FR 6352 (February 8, 2006) (Ajo, Arizona area); 71 FR 13021 (March 14, 2006) (Yuma, Arizona area); 71 FR 40023 (July 14, 2006) (Weirton, West Virginia area); 71 FR 44920 (August 8, 2006) (Rillito, Arizona area); 71 FR 63642 (October 30, 2006) (San Joaquin Valley, California area); 72 FR 14422 (March 28, 2007) (Miami, Arizona area); and 75 FR 27944 (May 19, 2010) (Coso Junction, California area). Thus 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.

methods under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this final 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 action will not impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register.** A major rule cannot take effect until 60 days after it is published in the **Federal Register.** This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 12, 2013. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen oxides, Particulate Matter, Sulfur oxides, Reporting and recordkeeping requirements.

Dated: August 22, 2013.

Jared Blumenfeld,

Regional Administrator, Region IX.

Part 52, Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart F—California

■ 2. Section 52.247 is amended by adding paragraph (d) to read as follows:

§ 52.247 Control Strategy and Regulations: Fine Particle Matter.

* * * * *

(d) *Determination of Attainment:* Effective October 10, 2013, EPA has determined that, based on 2010 to 2012 ambient air quality data, the Chico $PM_{2.5}$ nonattainment area has attained the 2006 24-hour $PM_{2.5}$ NAAQS. This determination suspends the requirements for this area to submit an attainment demonstration, associated reasonably available control measures, a reasonable further progress plan, contingency measures, and other planning SIPs related to attainment for as long as this area continues to attain the 2006 24-hour $PM_{2.5}$ NAAQS. If EPA determines, after notice-and-comment rulemaking, that this area no longer meets the 2006 24-hour $PM_{2.5}$ NAAQS, the corresponding determination of attainment for that area shall be withdrawn.

[FR Doc. 2013–21877 Filed 9–9–13; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 120918468–3111–02]

RIN 0648–XC856

Fisheries of the Exclusive Economic Zone Off Alaska; Reallocation of Pacific Cod in the Western Regulatory Area of the Gulf of Alaska Management Area

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; reallocation.

SUMMARY: NMFS is reallocating the projected unused amount of Pacific cod from trawl catcher/processors to catcher vessels using hook-and-line gear in the Western Regulatory Area of the Gulf of Alaska management area (GOA). This action is necessary to allow the 2013 total allowable catch of Pacific cod in the Western Regulatory Area of the GOA to be harvested.

DATES: Effective September 5, 2013, through 2400 hours, Alaska local time (A.l.t.), December 31, 2013.

FOR FURTHER INFORMATION CONTACT: Obren Davis, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the Gulf of Alaska exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679. Regulations governing sideboard protections for GOA groundfish fisheries appear at subpart B of 50 CFR part 680.

The 2013 Pacific cod total allowable catch specified for trawl catcher/processors (C/Ps) in the Western Regulatory Area of the GOA is 496 metric tons (mt) as established by the final 2013 and 2014 harvest specifications for groundfish in the GOA (78 FR 13162, February 26, 2013). The Administrator, Alaska Region (Regional Administrator) has determined that trawl C/Ps will not be able to harvest 100 mt of the 2013 Pacific cod TAC allocated to those vessels under § 679.20(a)(12)(i)(A). In accordance with § 679.20(a)(12)(ii)(B), the Regional Administrator has also determined that catcher vessels using hook-and-line currently have the capacity to harvest this excess allocation and reallocates 100 mt to catcher vessels using hook-and-line gear in the Western Regulatory Area of the GOA.

The harvest specifications for Pacific cod in the Western Regulatory Area of the GOA included in the final 2013 harvest specifications for groundfish in the GOA (78 FR 13162, February 26, 2013) is revised as follows: 396 mt for trawl C/Ps and 390 mt for vessels using hook-and-line gear.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the reallocation of Pacific cod specified from trawl C/Ps to vessels using hook-and-line gear. Since the