equipped with N100 (if oil aerosols absent), R100, or P100 filters;

(B) NIOSH-certified air-purifying, tight-fitting full-face respirator equipped with N100 (if oil aerosols absent), R100, or P100 filters;

(C) NIOSH-certified powered air-purifying respirator equipped with a loose- fitting hood or helmet and high efficiency particulate air (HEPA) filters;

(D) NIOSH-certified powered air-purifying respirator equipped with a tight-fitting facepiece (either half-face or full-face) and HEPA filters; and

(E) NIOSH-certified supplied-air respirator operated in pressure demand or continuous flow mode and equipped with a hood or helmet, or tight-fitting facepiece (either half-face or full-face).

(ii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a), (b), (c), (d), and (i) are applicable to manufacturers and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

[FR Doc. 2014–20783 Filed 8–29–14; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 52

**[EPA–R09–OAR–2014–0589; FRL–9916–04–Region–9]**

## Finding of Failure To Submit a Prevention of Significant Deterioration State Implementation Plan Revision for Particulate Matter Less Than 2.5 Micrometers ($PM_{2.5}$); California; North Coast Air Quality Management District

**AGENCY:** Environmental Protection Agency.

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is finding that the North Coast Air Quality Management District (NCAQMD or District), located in California, has not made a necessary Prevention of Significant Deterioration (PSD) State Implementation Plan (SIP) submission to address the PSD permitting of $PM_{2.5}$ emissions, as required by the Clean Air Act (CAA). Specifically, the EPA is determining that NCAQMD has not submitted a SIP revision to address the $PM_{2.5}$ PSD increments and implementing regulations as promulgated by EPA on October 20, 2010. The deadline for the District to make the required submittal was July 20, 2012. The CAA requires EPA to promulgate a Federal Implementation Plan (FIP) to address the outstanding PSD SIP elements by no later than 24 months after the effective date of this finding. EPA is making this finding in accordance with section 110 and part C of the CAA.

**DATES:** The effective date of this rule is October 2, 2014.

**FOR FURTHER INFORMATION CONTACT:** Laura Yannayon, Air Division (Air-3), Environmental Protection Agency, Region 9, 75 Hawthorne St, San Francisco, CA 94105. By phone at (415) 972–3534 or by email at *yannayon.laura@epa.gov.*

**SUPPLEMENTARY INFORMATION:** Section 553 of the Administrative Procedures Act (APA), 5 U.S.C. 553(b)(B), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary, or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. The EPA has determined that there is good cause for making this rule final without prior proposal and opportunity for comment because no significant EPA judgment is involved in making a finding of failure to submit SIPs, or elements of SIPs, required by the CAA, where states have made no submissions to meet the requirement. No additional fact gathering is necessary. Thus, notice and public procedure are unnecessary. Furthermore, providing notice and comment would be impracticable because of the limited time provided under the CAA for making such determinations. EPA believes that because of the limited time provided to make findings of failure to submit regarding SIP submissions, Congress did not intend such findings to be subject to notice-and-comment rulemaking. Finally, notice and comment would be contrary to the public interest because it would divert Agency resources from the critical substantive review of submitted SIPs. See 58 FR 51270, 51272, note 17 (October 1, 1993); 59 FR 39832, 39853 (August 4, 1994). The EPA finds that these constitute good cause under 5 U.S.C. 553(b)(B).

Throughout this document wherever ''we,'' ''us,'' or ''our'' is used, we mean the EPA.

**Table of Contents**



### I. Background and Overview

#### *A. Overview of Relevant PM NAAQS Requirements*

The EPA initially established National Ambient Air Quality Standards (NAAQS) for particulate matter (PM) under section 109 of the CAA in 1971. Since then, the EPA has made a number of changes to these standards to reflect continually expanding scientific information. The history of the $PM_{2.5}$ NAAQS is briefly summarized below.

- In July 1997, new PM NAAQS were added, using $PM_{2.5}$ as the indicator for fine particles. The EPA's $PM_{10}$ standards were retained for the purpose of regulating the coarse fraction of $PM_{10}$. The EPA established two new $PM_{2.5}$ standards: an annual standard of 15 μg/$m^3$, based on the 3-year average of annual arithmetic mean $PM_{2.5}$ concentrations from single or multiple monitors sited to represented community-wide air quality and a 24-hour standard of 65 μg/$m^3$, based on the 3-year average of the 98th percentile of 24-hour $PM_{2.5}$ concentrations at each population-oriented monitor within the area.
- On October 17, 2006, the EPA promulgated revisions to the NAAQS for $PM_{2.5}$ and $PM_{10}$ with an effective date of December 18, 2006 (71 FR 61144). We lowered the 24-hour NAAQS for $PM_{2.5}$ from 65 μg/$m^3$ to 35 μg/$m^3$, and retained the existing annual $PM_{2.5}$ NAAQS of 15 μg/$m^3$. In addition, we retained the existing $PM_{10}$ 24-hour NAAQS of 150 mg/$m^3$, and revoked the annual $PM_{10}$ NAAQS (set at 50 mg/$m^3$).
- On January 15, 2013, the EPA promulgated revisions to the NAAQS for $PM_{2.5}$ and $PM_{10}$ with an effective date of March 18, 2013 (78 FR 3086). We lowered the annual standard for $PM_{2.5}$ to 12 μg/$m^3$ and retained the 24-hour $PM_{2.5}$ standard at the level of 35 μg/$m^3$. For $PM_{10}$, the EPA retained the current 24-hour $PM_{10}$ primary and secondary standards.

#### *B. Revisions to the PSD Program to Implement the $PM_{2.5}$ NAAQS*

To implement the $PM_{2.5}$ NAAQS for PSD purposes, EPA issued two separate final rules that establish the New Source Review (NSR) permitting requirements for $PM_{2.5}$: the NSR $PM_{2.5}$ Implementation Rule promulgated on May 16, 2008 (73 FR 28321), and the $PM_{2.5}$ PSD Increments—Significant Impact Levels (SILs)—Significant

Monitoring Concentration (SMC) Rule promulgated on October 20, 2010 (75 FR 64864) ($PM_{2.5}$ PSD Increment—SILs—SMC Rule). This action focuses solely on the $PM_{2.5}$ PSD Increment—SILs—SMC Rule.

The $PM_{2.5}$ PSD Increment—SILs—SMC Rule required states to submit SIP revisions to EPA by July 20, 2012, adopting provisions equivalent to or at least as stringent as the $PM_{2.5}$ PSD increments and associated implementing regulations. Specifically, the rule required states to adopt and submit for EPA approval the $PM_{2.5}$ increments issued pursuant to section 166(a) of the CAA to prevent significant deterioration of air quality in areas meeting the NAAQS. States were also required to adopt and submit for EPA approval revisions to the definitions for *major source baseline date, minor source baseline date,* and *baseline area* as part of the implementing regulations for the $PM_{2.5}$ increment.

The $PM_{2.5}$ PSD Increment—SILs—SMC Rule also allowed States to discretionarily adopt and submit for EPA approval: (1) SILs, which are used as a screening tool to evaluate the impact a proposed new major source or major modification may have on the NAAQS or PSD increment; and (2) a SMC (also a screening tool) which is used to determine the subsequent level of data gathering required for a PSD permit application for emissions of $PM_{2.5}$. However, on January 22, 2013, the U.S. Court of Appeals for the District of Columbia granted a request from the EPA to vacate and remand portions of the federal PSD regulations (40 CFR 51.166(k)(2) and 52.21(k)(2)) establishing the SILs for $PM_{2.5}$ so that the EPA could reconcile the inconsistency between the regulatory text and certain statements in the preamble to the 2010 final rule. *Sierra Club v. EPA,* 705 F.3d 458, 463–64. The Court declined to vacate the portion of the federal PSD regulations (40 CFR 51.165(b)(2)) establishing SILs for $PM_{2.5}$ that did not contain the same inconsistency in the regulatory text. *Id.* at 465–66. The Court further vacated the portions of the PSD regulations (40 CFR 51.166(i)(5)(i)(*c*) and 52.21(i)(5)(i)(*c*)) establishing a $PM_{2.5}$ SMC, finding that the EPA lacked legal authority to adopt and use the $PM_{2.5}$ SMC to exempt permit applicants from the statutory requirement to compile and submit ambient monitoring data. *Id.* at 468–69. On December 9, 2013, EPA issued a good cause final rule formally removing the affected SILs and SMC provisions from the CFR. See 78 FR 73698. As such, SIP submittals should no longer include the vacated $PM_{2.5}$ SILs at 40 CFR 51.166(k)(2) and 52.21(k)(2) or the vacated $PM_{2.5}$ SMC provisions at 40 CFR 51.166(i)(5)(i)(*c*) and 52.21(i)(5)(i)(*c*) for $PM_{2.5}$ PSD permitting. EPA notes that today's finding of failure to submit for the NCAQMD does not include the SILs or SMC components of the $PM_{2.5}$ PSD Increment—SILs—SMC Rule.

## II. Finding of Failure To Submit

The EPA is making a finding that the NCAQMD has failed to submit a required PSD SIP revision to address the implementation and permitting of $PM_{2.5}$ emissions in the NCAQMD PSD program. Specifically, we are finding that NCAQMD failed to submit a SIP revision addressing the required $PM_{2.5}$ PSD elements establishing increments and the implementing regulations by the specified deadline of July 20, 2012, as required by the 2010 $PM_{2.5}$ PSD Increments—SILs—SMC Rule. By no later than 24 months after the effective date of this ruling, the EPA is required by the Act to promulgate a FIP for NCAQMD to address the $PM_{2.5}$ PSD requirements for increment. This finding of failure to submit does not impose sanctions or set deadlines for imposing sanctions as described in section 179 of the CAA, because this finding does not pertain to the elements of a part D, title I plan for nonattainment areas as required under section 110(a)(2)(I) and because this action is not a SIP call pursuant to section 110(k)(5). This action will be effective on October 2, 2014.

This action does not make a finding of failure to submit for NCAQMD regarding the required $PM_{2.5}$ PSD SIP revision due on May 19, 2011, pursuant to the 2008 NSR $PM_{2.5}$ Implementation Rule, because NCAQMD submitted a revised PSD rule to address these requirements on February 28, 2011.

This action will start a FIP clock that will end 24 months from the effective date of today's finding, and addresses the PSD revisions required by the 2010 $PM_{2.5}$ PSD Increments—SILs—SMC Rule.

## III. Statutory and Executive Order Reviews

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

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

### *B. Paperwork Reduction Act*

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* This final rule does not establish any new information collection requirement apart from what is already required by law. This rule relates to the requirement in the CAA for states to submit PSD SIPs under section 166(b) to satisfy certain prevention of significant deterioration requirements under the CAA for the $PM_{2.5}$ NAAQS. Burden means the total time, effort or financial resources expended by persons to generate, maintain, retain or disclose or provide information to or for a federal agency. This includes the time needed to review instructions; develop, acquire, install and utilize technology and systems for the purposes of collecting, validating and verifying information, processing and maintaining information and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information. An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for the EPA's regulations in the CFR are listed in 40 CFR Part 9.

### *C. Regulatory Flexibility Act (RFA)*

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

After considering the economic impacts of this final rule on small entities, I certify that this rule will not have a significant economic impact on a substantial number of small entities. This final rule will not impose any requirements on small entities. This action relates to the requirement in the CAA for states to submit PSD SIPs under section 166(b) to satisfy certain prevention of significant deterioration requirements of the CAA for the $PM_{2.5}$ NAAQS. Because EPA has made a ''good cause'' finding that this action is not subject to notice-and-comment requirements under the APA and any other statute, it is not subject to the regulatory flexibility provisions of the RFA.

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

This action contains no federal mandate under the provisions of Title II of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1531–1538 for state, local and tribal governments and the private sector. The action imposes no enforceable duty on any state, local or tribal governments or the private sector. Therefore, this action is not subject to the requirements of section 202 and 205 of the UMRA. This action is also not subject to the requirements of section 203 of UMRA because it contains no regulatory requirements that might significantly or uniquely affect small governments. This action relates to the requirement in the CAA for states to submit PSD SIPs under section 166(b) to satisfy certain prevention of significant deterioration requirements under the CAA for the $PM_{2.5}$ NAAQS. This rule merely finds that NCAQMD has not met that requirement. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector result from this action.

Additionally, because EPA has made a ''good cause'' that this action is not subject to notice-and-comment requirements under the APA or any other statute, it is not subject to sections 202 and 205 of the UMRA.

*E. Executive Order 13132: Federalism*

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

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

EO 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000), requires the EPA to develop an accountable process to ensure ''meaningful and timely input by Tribal officials in the development of regulatory policies that have Tribal implications.'' This final rule does not have tribal implications, as specified in EO 13175. This rule responds to the requirement in the CAA for states to submit PSD SIPs under section 166(b) to satisfy certain prevention of significant deterioration requirements under the CAA for $PM_{2.5}$ NAAQS. No tribe is subject to the requirement to submit an implementation plan under section 166(b) within 21 months of promulgation of PSD regulations under section 166(a).

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

The EPA interprets EO 13045 (62 FR 19885, April 23, 1997) as applying only to those regulatory actions that concern health or safety risks, such that the analysis required under section 5–501 of the EO has the potential to influence the regulation. This action is not subject to EO 13045 because it merely finds that NCAQMD has failed to make a submission that is required under the Act to implement the $PM_{2.5}$ NAAQS.

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

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

*I. National Technology Transfer and Advancement Act*

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law No. 104–113, section 12(d) (15 U.S.C. 272 note), directs the EPA to use voluntary consensus standards (VCS) in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impracticable. VCS are technical standards (e.g., materials specifications, test methods, sampling procedures and business practices) that are developed or adopted by VCS bodies. The NTTAA directs the EPA to provide Congress, through OMB, explanations when the agency decides not to use available and applicable VCS. This action does not involve technical standards. Therefore, the EPA did not consider the use of any VCS.

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

EO 12898 (59 FR 7629, February 16, 1994) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies and activities on minority populations and low-income populations in the United States. The EPA has determined that this final rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not directly affect the level of protection provided to human health or the environment. This notice is making a finding that the NCAQMD failed to submit a SIP revision that provides certain basic permitting requirements for the $PM_{2.5}$ NAAQS.

*K. Congressional Review Act*

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other

required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. section 804(2). This rule is effective on October 2, 2014.

**L. Judicial Review**

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 3, 2014. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposed 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, Intergovernmental Relations, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

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

Dated: August 11, 2014.

**Alexis Strauss,**

*Acting Regional Administrator, Region IX.*

[FR Doc. 2014–20691 Filed 8–29–14; 8:45 am]

**BILLING CODE 6560–50–P**

## DEPARTMENT OF THE INTERIOR

### Office of the Secretary

### 43 CFR Part 2

**[XXXD4523WT DWT000000.000000 DS65101000]**

**RIN 1090–AB02**

## Privacy Act Regulations; Exemption for the Incident Management, Analysis and Reporting System

**AGENCY:** Office of the Secretary, Interior.

**ACTION:** Final rule.

**SUMMARY:** The Department of the Interior is issuing a final rule to amend its regulations to exempt certain records in the Incident Management, Analysis and Reporting System from one or more provisions of the Privacy Act because of criminal, civil, and administrative law enforcement requirements.

**DATES:** This final rule is effective October 2, 2014.

**FOR FURTHER INFORMATION CONTACT:** Teri Barnett, Departmental Privacy Act Officer, U.S. Department of the Interior, 1849 C Street NW., Mail Stop 5547 MIB, Washington, DC 20240. Email at *privacy@ios.doi.gov.*

**SUPPLEMENTARY INFORMATION:**

**Background**

The Department of the Interior (DOI) published a notice of proposed rulemaking in the **Federal Register**, 78 FR 46555, August 1, 2013, proposing to exempt certain records in the Incident Management, Analysis and Reporting System (IMARS) from 5 U.S.C. 552a(j)(2) and (k)(2) of the Privacy Act because of criminal, civil, and administrative law enforcement requirements. The IMARS system of records notice was published in the **Federal Register**, 78 FR 45949, July 30, 2013, and an amended notice was published on June 3, 2014, 79 FR 31974. Comments were invited on both the IMARS system of records notice and the amended system of records, and the notice of proposed rulemaking. DOI received no comments on the notice of proposed rulemaking or published system of records notices and will therefore implement the rulemaking as proposed.

**Procedural Requirements**

*1. Regulatory Planning and Review (E.O. 12866)*

Executive Order 12866 provides that the Office of Information and Regulatory Affairs in the Office of Management and Budget will review all significant rules. The Office of Information and Regulatory Affairs has determined that this rule is not significant.

Executive Order 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The executive order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements.

*2. Regulatory Flexibility Act*

The Department of the Interior certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*). This rule does not impose a requirement for small businesses to report or keep records on any of the requirements contained in this rule. The exemptions to the Privacy Act apply to individuals, not to entities covered under the Regulatory Flexibility Act.

*3. Small Business Regulatory Enforcement Fairness Act (SBREFA)*

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule:

(a) Does not have an annual effect on the economy of $100 million or more.

(b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.

(c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises.

*4. Unfunded Mandates Reform Act*

This rule does not impose an unfunded mandate on State, local, or tribal governments in the aggregate, or on the private sector, of more than $100 million per year. The rule does not have a significant or unique effect on State, local, or tribal governments or the private sector. This rule makes only minor changes to 43 CFR part 2. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

*5. Takings (E.O. 12630)*

In accordance with Executive Order 12630, the rule does not have significant takings implications. This rule makes only minor changes to 43 CFR part 2. A takings implication assessment is not required.

*6. Federalism (E.O. 13132)*

In accordance with Executive Order 13132, this rule does not have any federalism implications to warrant the preparation of a Federalism Assessment. The rule is not associated with, nor will it have substantial direct effects on the States, on the relationship between the