

Dated: November 30, 2016.

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*Rear Admiral, U.S. Coast Guard, Commander,
Ninth Coast Guard District.*

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52 and 81

[EPA-HQ-OAR-2016-0515; FRL-9956-20-OAR]

RIN 2060-AT24

Determinations of Attainment by the Attainment Date, Determinations of Failure To Attain by the Attainment Date and Reclassification for Certain Nonattainment Areas for the 2006 24-Hour Fine Particulate Matter National Ambient Air Quality Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing determinations of attainment by the attainment date and determinations of failure to attain by the attainment date for eleven areas currently classified as “Moderate” for the 2006 24-hour fine particulate matter (PM_{2.5}) National Ambient Air Quality Standards (NAAQS). Specifically, the EPA is proposing to determine that seven areas attained the 2006 24-hour PM_{2.5} NAAQS by December 31, 2015, based on complete, quality-assured and certified PM_{2.5} monitoring data for 2013–2015. The EPA is also proposing to determine that four areas failed to attain the 2006 24-hour PM_{2.5} NAAQS by December 31, 2015. Upon finalization of such determinations of failure to timely attain the NAAQS, these four areas will be reclassified as “Serious” for the 2006 24-hour PM_{2.5} NAAQS by operation of law. Within 18 months from the effective date of reclassification, or 2 years before the applicable Serious area attainment date, whichever is earlier, states with jurisdiction over these areas must submit State Implementation Plan (SIP) revisions that comply with the statutory and regulatory requirements for Serious PM_{2.5} nonattainment areas.

DATES: Comments must be received on or before January 17, 2017.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-HQ-OAR-2016-0515, at <http://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be

edited or removed from *Regulations.gov*. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: Ms. Leigh Herrington, Office of Air Quality Planning and Standards, Air Quality Policy Division, Mail code C539-01, Research Triangle Park, NC 27711, telephone (919) 541-0882; fax number: (919) 541-5315; email address: herrington.leigh@epa.gov.

SUPPLEMENTARY INFORMATION: This preamble is organized as follows:

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I. General Information

A. Does this action apply to me?

Entities potentially affected by this action include states (typically state air pollution control agencies) and, in some cases, tribal governments. In particular, seven states¹ with one or more areas designated nonattainment and classified as “Moderate” for the 2006 24-hour PM_{2.5} NAAQS are affected by this action. Entities potentially affected indirectly by this proposal include owners or operators of sources of emissions of direct PM_{2.5} or PM_{2.5} precursors (ammonia, nitrogen oxides, sulfur dioxide and volatile organic compounds) that contribute to fine particulate levels within the designated nonattainment areas the EPA is addressing in this action.

B. What should I consider as I prepare my comments for the EPA?

1. *Submitting CBI.* Do not submit this information to the EPA through <http://www.regulations.gov> or email. Clearly mark the part or all of the information that you claim to be confidential business information (CBI). For CBI information in a disk or CD-ROM that you mail to the EPA, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed to be CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for Preparing Your Comments.* When submitting comments, remember to:

- Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).
- Follow directions—The agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

¹ Alaska, Arizona, California, Idaho, Pennsylvania, Tennessee and Utah.

- Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

- Describe any assumptions and provide any technical information and/or data that you used.

- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

- Provide specific examples to illustrate your concerns, and suggest alternatives.

- Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

- Make sure to submit your comments by the comment period deadline identified.

C. Where can I get a copy of this document and other related information?

In addition to being available in the docket, an electronic copy of this notice will be posted at <https://www.epa.gov/pm-pollution/particulate-matter-pm-implementation-regulatory-actions>.

D. What information should I know about a possible public hearing?

To request a public hearing or information pertaining to a public hearing on this document, contact Ms. Pamela Long at (919) 541-0641 before 5 p.m. on January 3, 2017. If requested, further details concerning a public hearing for this proposed rule will be published in a separate **Federal Register** notice. For updates and additional information on a public hearing, please check the EPA’s Web site for this rulemaking at <https://www.epa.gov/pm-pollution/particulate-matter-pm-implementation-regulatory-actions>.

II. Summary of Proposal and Background

A. Summary of Proposal

Clean Air Act (CAA) section 188(b)(2) requires the EPA to determine whether any PM_{2.5} nonattainment area classified as “Moderate” attained the relevant PM_{2.5} standard by the area’s attainment date, and requires EPA to make such determination within 6 months after that date.² The CAA requires that a Moderate area that has not attained the standard by the relevant attainment date be reclassified to “Serious.” The 2006 24-hour PM_{2.5} NAAQS are met when the 24-hour PM_{2.5} NAAQS design value at each eligible monitoring site is less than or equal to 35 micrograms per cubic meter (µg/m³), as explained in Section III of this rulemaking action.

In this notice, the EPA is proposing to find that seven Moderate areas attained the 2006 24-hour PM_{2.5} NAAQS by December 31, 2015, which is the applicable attainment date for these areas. This finding is based on complete, quality-assured and certified PM_{2.5} monitoring data for the 3-year period of 2013–2015.³ The seven areas are: (1) Chico, California; (2) Imperial County, California; (3) Knoxville-Sevierville-La Follette, Tennessee; (4) Liberty-Clairton, Pennsylvania; (5) Nogales, Arizona; (6) Sacramento, California; and, (7) San Francisco Bay Area, California. The EPA is also proposing to find that four Moderate areas failed to attain the 2006 24-hour PM_{2.5} NAAQS by December 31, 2015: (1) Fairbanks, Alaska; (2) Logan, Utah-Idaho; (3) Provo, Utah; and, (4) Salt Lake City, Utah. As required by CAA section 188(b)(2), upon finalization of the EPA’s determinations that these areas failed to attain, these four areas will be

reclassified to Serious by operation of law and will be subject to all applicable Serious area attainment planning and nonattainment New Source Review (NNSR) requirements. Under CAA section 188(b)(2) and the EPA’s final rule, titled “Fine Particulate Matter National Ambient Air Quality Standards: State Implementation Plan Requirements” (81 FR 58010, August 24, 2016), a state is required to make a SIP submission to address the statutory and regulatory requirements for any newly reclassified Serious area within 18 months from the effective date of reclassification, or 2 years before the attainment date, whichever is earlier, and will be required to demonstrate that the area will attain the standard as expeditiously as practicable, but in this case no later than December 31, 2019, which is the end of the tenth calendar year following the effective date of designation of the area.

The EPA also notes that CAA section 188(d) provides a mechanism by which a state may request, and the EPA may grant, a 1-year extension of an area’s attainment date if the state meets certain criteria. While the state of Idaho submitted a request for a 1-year attainment date extension for the Logan, Utah-Idaho multi-state nonattainment area, the agency has determined that the state did not meet the criteria for a Moderate area 1-year attainment date extension provided in CAA section 188(d), as explained more fully later. Accordingly, the EPA is including the Logan, Utah-Idaho nonattainment area in its list of areas for a proposed finding of failure to attain by December 31, 2015.

Table 1 provides a summary of the EPA’s proposed findings that would apply to these eleven areas.

TABLE 1—2006 24-HOUR PM_{2.5} NAAQS: SUMMARY OF PROPOSED FINDINGS FOR ELEVEN MODERATE NONATTAINMENT AREAS

2006 24-hour PM _{2.5} NAAQS nonattainment area	2013–2015 Design value (µg/m ³)	2006 24-hour PM _{2.5} NAAQS status
Chico, California	29	Attained.
Fairbanks, Alaska	124	Did not attain.
Imperial County, California	33	Attained.
Knoxville-Sevierville-La Follette, Tennessee	20	Attained.
Liberty-Clairton, Pennsylvania	33	Attained.

² An area’s highest design value for the 24-hour PM_{2.5} NAAQS is the highest of the 3-year average of annual 98th percentile 24-hour average PM_{2.5} mass concentration values recorded at each eligible monitoring site (40 CFR part 50, Appendix N, 1.0(c)(2)).

³ According to 40 CFR part 50, Appendix N, 3.0(a), “data not certified by the reporting organization can nevertheless be used, if the deadline for certification has passed and EPA judges the data to be complete and accurate.”

⁴ The EPA notes that 2013–2015 monitoring data indicate that the Imperial County, California nonattainment area has attained the 2006 24-hour PM_{2.5} NAAQS. Prior to 2013, the EPA requested that the California Air Resources Board and Imperial County Air Pollution Control District increase sampling frequency at the monitor from 1 in 3 days to daily, but CARB and ICAPCD did not start daily sampling until 2014. This does not affect the validity of the design value because daily sampling was not required under the monitoring

regulations that applied at the time. Further, a separate calculation based on daily sampling data collected in 2013 at a collocated non-regulatory monitor yields a similar 98th percentile value for 2013 as the primary regulatory monitor. See Memo from Michael Flagg, U.S. EPA, Region IX, Air Quality Analysis Office, “Implementation of PM_{2.5} sampling frequency requirements in Imperial County,” November 1, 2016. This memo is within the rulemaking docket.

TABLE 1—2006 24-HOUR PM_{2.5} NAAQS: SUMMARY OF PROPOSED FINDINGS FOR ELEVEN MODERATE NONATTAINMENT AREAS—Continued

2006 24-hour PM _{2.5} NAAQS nonattainment area	2013–2015 Design value (µg/m ³)	2006 24-hour PM _{2.5} NAAQS status
Logan, Utah-Idaho	* 50	Did not attain.
Nogales, Arizona	28	Attained.
Provo, Utah	* 49	Did not attain.
Sacramento, California	35	Attained.
Salt Lake City, Utah	* 45	Did not attain.
San Francisco Bay Area, California	30	Attained.

* Data submitted to the EPA’s National Air Quality System (AQS) by the Utah Department of Environmental Quality for the period 2013–2015 are incomplete, meaning there are fewer than 75 percent of the necessary data required for completion. However, the valid data provided by the state and submitted to AQS for 2013–2015 show a design value greater than 35 µg/m³. The EPA’s regulations governing the use of air quality data for regulatory purposes, located at 40 CFR part 50, Appendix N 4.2(b), specify that 24-hour PM_{2.5} design values derived from less than complete data are valid if greater than the level of the standard. The EPA is thus basing this proposal on its determination that sufficient data exist to make findings of failure to attain and reclassifications for all Utah nonattainment areas. The EPA calculated the design values for these areas using the available PM_{2.5} Federal Reference Method (FRM) data in AQS as of September 21, 2016. These design values may change as data validation efforts to include additional monitoring data are completed by Utah. A memo describing the agency’s treatment of these data, titled “Utah PM_{2.5} 2013–2015 24-hour Design Concentrations Memo,” is included in the docket for this rulemaking.

B. What is the background for this proposed action?

This proposed action relates to the ongoing efforts of states and the EPA to implement the PM_{2.5} NAAQS. Since the EPA’s initial promulgation of the NAAQS to address fine particles, there have been significant rulemaking and litigation developments that affect these ongoing efforts. In order to clarify the proper application of the statutory and regulatory requirements to this action, the EPA is providing a fuller explanation of the evolving implementation efforts.

On July 18, 1997, the EPA established the first NAAQS for PM_{2.5} (the 1997 PM_{2.5} NAAQS), including an annual standard of 15.0 µg/m³ based on a 3-year average of annual mean PM_{2.5} concentrations, and a 24-hour (or daily) standard of 65 µg/m³ based on a 3-year average of the 98th percentile of 24-hour concentrations (62 FR 38652). The EPA established the 1997 PM_{2.5} NAAQS based on significant evidence and numerous health studies demonstrating the serious health effects associated with exposures to PM_{2.5}. To provide guidance on the CAA requirements for state and tribal implementation plans to implement the 1997 PM_{2.5} NAAQS, the EPA promulgated the “Final Clean Air Fine Particle Implementation Rule” (72 FR 20586, April 25, 2007) (hereinafter, the “2007 PM_{2.5} Implementation Rule”). The Natural Resources Defense Council (NRDC) subsequently filed a petition for review challenging certain aspects of this rule.

On October 17, 2006, the EPA strengthened the 24-hour PM_{2.5} NAAQS by revising it to 35 µg/m³ and retained the level of the annual PM_{2.5} standard at 15.0 µg/m³ (71 FR 61144). Following promulgation of a new or revised

NAAQS, the EPA is required by the CAA to promulgate designations for areas throughout the U.S. in accordance with section 107(d)(1) of the CAA. On November 13, 2009, the EPA designated 31 areas across the U.S. with respect to the revised 2006 24-hour PM_{2.5} NAAQS (74 FR 58688), requiring states to prepare and submit attainment plans to meet those NAAQS. At the time of those designations, the states and the EPA were operating under the interpretations of the CAA set forth in the 2007 PM_{2.5} Implementation Rule, which covered issues such as the timing of attainment plan submissions, the content of attainment plan submissions, and the relevant attainment dates.

On March 2, 2012, the EPA issued its “Implementation Guidance for the 2006 Fine Particulate (PM_{2.5}) National Ambient Air Quality Standards (NAAQS)” to provide guidance to states on the development of attainment plans to demonstrate attainment with the 2006 24-hour PM_{2.5} NAAQS (“March 2012 Implementation Guidance”). This guidance largely instructed states to rely on the 2007 PM_{2.5} Implementation Rule in developing SIPs to demonstrate attainment of the 2006 24-hour PM_{2.5} NAAQS.

On January 4, 2013, the U.S. Court of Appeals for the D.C. Circuit issued its decision with regard to the challenge by the NRDC to the EPA’s 2007 PM_{2.5} Implementation Rule. In *NRDC v. EPA*,⁵ the court held that the EPA erred in implementing the 1997 PM_{2.5} NAAQS pursuant only to the general implementation requirements of subpart 1, rather than also to the implementation requirements specific to particulate matter (PM₁₀) in subpart 4, part D of title I of the CAA (“subpart

4”). The court reasoned that the plain meaning of the CAA requires implementation of the 1997 PM_{2.5} NAAQS under subpart 4 because PM_{2.5} particles fall within the statutory definition of PM₁₀ and thus implementation of the PM_{2.5} NAAQS is subject to the same statutory requirements as the PM₁₀ NAAQS. The court remanded the rule and instructed the EPA “to repromulgate these rules pursuant to Subpart 4 consistent with this opinion.”⁶

As a result of the *NRDC v. EPA* decision, the EPA withdrew its March 2012 Implementation Guidance for implementation of the 2006 24-hour PM_{2.5} NAAQS. In so doing, the EPA advised states that the statutory requirements of subpart 4 apply to attainment plans for these NAAQS and reminded the states about pre-existing EPA guidance regarding the subpart 4 requirements. One practical consequence of the application of subpart 4 to states with areas designated nonattainment for the 2006 24-hour PM_{2.5} NAAQS is that the applicable statutory attainment date is governed by CAA section 188(c), which states that for areas classified as Moderate, the statutory attainment date is “as expeditiously as practicable, but no later than the end of the sixth calendar year after the area’s designation as nonattainment.” Thus, for the areas at issue in this action, the latest possible statutory Moderate area attainment date was December 31, 2015.

Consistent with the *NRDC v. EPA* decision, the EPA published a final rule on June 2, 2014, classifying all areas that were designated nonattainment for the 1997 and/or 2006 PM_{2.5} standards at the time as “Moderate” under subpart 4.

⁵ *NRDC v. EPA*, 706 F.3d 428 (D.C. Cir. 2013).

⁶ *Id.*, 706 F.3d at 437.

The EPA also established a due date of December 31, 2014, for states to submit attainment-related and NNSR SIP elements required for these areas pursuant to subpart 4. This rulemaking did not affect the statutory attainment dates imposed in subpart 4 and merely provided states with the opportunity to update or revise any prior attainment plan submissions, if necessary, to meet subpart 4 requirements in light of the 2013 court decision. This rulemaking did not affect any action that the EPA had previously taken under CAA section 110(k) on a SIP for a PM_{2.5} nonattainment area.

Currently, there are 14 nonattainment areas classified as Moderate for the 2006 24-hour PM_{2.5} NAAQS, 11 of which are addressed in this notice.⁷ The applicable statutory attainment date for these areas was as expeditiously as practicable but no later than December 31, 2015. Pursuant to section 188(b)(2) of the CAA, within 6 months of the Moderate area attainment date, the EPA must (1) determine whether each area attained the standard by the attainment date, and (2) reclassify as a Serious nonattainment area any area that did not attain by the attainment date.

III. Criteria for Determining Whether an Area Has Attained the 2006 24-Hour PM_{2.5} Standards

Under EPA regulations at 40 CFR part 50, Appendix N, the 2006 primary and secondary 24-hour PM_{2.5} NAAQS are met within a nonattainment area when the 24-hour PM_{2.5} NAAQS design value at each eligible monitoring site is less than or equal to 35 µg/m³. Three years of valid annual PM_{2.5} 98th percentile mass concentrations are required to produce a valid 24-hour PM_{2.5} NAAQS design value.

The EPA's determination of attainment is based upon data that have been collected and quality-assured in accordance with 40 CFR part 58 and recorded in the EPA's AQS database. Ambient air quality monitoring data for the 3-year period must meet data completion criteria or data substitution criteria according to 40 CFR part 50, Appendix N. The ambient air quality

⁷ The three areas not addressed in this action are Klamath Falls, Oregon; Oakridge, Oregon; and, West Central Pinal, Arizona. The EPA issued a determination of attainment by the attainment date of December 31, 2014, for Klamath Falls, Oregon, on June 6, 2016 (*See* 81 FR 36176). The EPA issued a 1-year attainment date extension from December 31, 2015, to December 31, 2016, for Oakridge, Oregon. *See* 81 FR 46612, July 18, 2016. The EPA designation for the West Central Pinal, Arizona area as nonattainment became effective March 7, 2011. *See* 76 FR 6056, February 3, 2011. Therefore, the latest attainment date applicable to this area under subpart 4 is December 31, 2017.

monitoring data completeness requirements are met when quarterly data capture rates for all four quarters in a calendar year are at least 75 percent. However, Appendix N states that years shall be considered valid, notwithstanding quarters with less than complete data, if the resulting annual 98th percentile value or resulting 24-hour NAAQS design value is greater than the level of the standard.

IV. The EPA's Proposed Action and Associated Rationale

The EPA is issuing this proposal pursuant to the agency's statutory obligation under CAA section 188(b)(2) to determine whether 11 nonattainment areas have attained the 2006 24-hour PM_{2.5} NAAQS by December 31, 2015. The agency's proposed actions, and the rationale for these proposed actions, are described in the sections that follow.

A. Determinations of Attainment

The EPA evaluated data from air quality monitors in 11 areas classified as Moderate for the 2006 24-hour PM_{2.5} NAAQS in order to determine the areas' attainment status as of the applicable attainment date, December 31, 2015. Seven of the 11 nonattainment areas' monitoring sites with valid data had a design value equal to or less than 35 µg/m³ based on the 2013–2015 monitoring period. Thus, the EPA proposes to determine, in accordance with section 188(b)(2) of the CAA, that these seven areas (listed in Table 1) have attained the standard by the applicable attainment date. The EPA's determination is based upon 3 years' worth of complete, quality-assured and certified data during the applicable 3-year period. The monitoring data for the 3 years (2013 to 2015) used to calculate each monitor's design value are provided in a technical support document (TSD) in the docket for this proposed action.⁸ Also, the EPA notes that these determinations of attainment do not constitute a redesignation to attainment. Redesignations require states to meet a number of additional statutory criteria, including the EPA approval of a state plan demonstrating maintenance of the air quality standard for 10 years after redesignation. As for all NAAQS, the EPA is committed to working with states that choose to submit redesignation requests for the 2006 24-hour PM_{2.5} NAAQS. The EPA is

⁸ Technical Support Document Regarding PM_{2.5} Monitoring Data—Determinations of Attainment by the Attainment Date, Determinations of Failure to Attain by the Attainment Date and Reclassification For Certain Nonattainment Areas for the 2006 24-Hour Fine Particulate Matter National Ambient Air Quality Standards.

soliciting comments on these proposed determinations of attainment by the attainment date.

B. Determinations of Failure To Attain and Reclassification

The EPA is proposing to determine that the remaining four areas (listed in Table 1) failed to attain the 2006 24-hour PM_{2.5} NAAQS by the applicable attainment date. Each of these areas failed to attain because the 2013–2015 design value for at least one monitor in each area exceeded the 2006 24-hour PM_{2.5} NAAQS of 35 µg/m³. The TSD provided in the docket shows all monitoring data for the relevant years for each of these nonattainment areas as well as the 3-year design value calculations for each area.

CAA section 188(b)(2) provides that a Moderate nonattainment area shall be reclassified by operation of law upon a determination by the EPA that such area failed to attain the relevant NAAQS by the applicable attainment date. Based on quality-assured PM_{2.5} monitoring data from 2013–2015, described in the TSD for this proposal, the new classification applicable to each of these four areas would be "Serious." Serious PM_{2.5} nonattainment areas are required to attain the standard as expeditiously as practicable, but no later than the end of the tenth year after designation (which, in the case of these four areas, is December 31, 2019).

Section 188(d) of the CAA states that the Administrator may extend the attainment date for 1 additional year if: "(1) the State has complied with all requirements and commitments pertaining to the area in the applicable implementation plan and (2) no more than one exceedance of the 24-hour NAAQS for PM₁₀ has occurred in the area in the year preceding the Extension Year, and the annual mean concentration of PM₁₀ in the area for such year is less than or equal to the standard level."⁹ The state of Idaho submitted two letters¹⁰ to the EPA

⁹ Consistent with the January 2013 *NRDC v. EPA* decision, the EPA reads the air quality criterion under CAA 188(d) for PM₁₀ to also apply to PM_{2.5}. The form of the 2006 24-hour PM_{2.5} NAAQS is a percentile-based form and not a "one expected exceedance" form as is the PM₁₀ NAAQS. The EPA interprets the statutory language to require a state seeking an attainment date extension for a Moderate nonattainment area for a 24-hour PM_{2.5} NAAQS to demonstrate that the area had clean data for that particular standard in the calendar year prior to the applicable attainment date for the area, rather than demonstrating that the area necessarily had no more than one exceedance of the 24-hour PM_{2.5} NAAQS.

¹⁰ *See* Letters from John H. Tippetts, Director, Department of Environmental Quality, state of Idaho, to Dennis J. McLerran, Regional Administrator, U.S. EPA, Region 10, on December

requesting a 1-year extension of the area's Moderate attainment date for its portion of the Logan, UT-ID multi-state nonattainment area, asserting that the state has complied with all requirements and commitments pertaining to the Logan, Utah-Idaho nonattainment area in the applicable Idaho SIP and that all monitors in the area have a 98th percentile of 35 $\mu\text{g}/\text{m}^3$ or less for the attainment year (2015). These letters are provided in the docket for this proposed action.

CAA section 188(d)(2) air quality criterion requiring the area to meet the applicable NAAQS in the year preceding the extension year applies to "the area" which, in the case of the Logan, Utah-Idaho, nonattainment area, includes regulatory monitors in both Franklin, Idaho, and Logan, Utah. In other words, the reference to "the area" is to the entire designated nonattainment area, not merely to a portion of it in one state. However, in its request, Idaho acknowledges that, ". . . the validity of the Logan, Utah, monitor data is in question. Therefore, the Franklin monitor is the only regulatory monitor available for use in the (nonattainment area)." Idaho's submission attempts to address concerns about the regulatory suitability of the Utah monitor with a statistical comparison of monitors in Utah and Idaho based on historical data.

Because there are data completeness issues for the Utah monitoring sites in question for the first three quarters of 2015, the nonattainment area as a whole lacks the necessary data for the EPA to determine that the air quality criterion has been satisfied for the entire nonattainment area. Moreover, because the historically high monitor is located on the Utah portion of the multi-state nonattainment area, as acknowledged by Idaho, the EPA believes that it is necessary to have complete data from the Utah monitor in order to determine whether the entire nonattainment area has a 98th percentile of 35 $\mu\text{g}/\text{m}^3$ or less for the year prior to the attainment date (*i.e.*, 2015).

Further, with respect to the 2015 monitoring data for the Franklin monitor, the EPA determined in 2015 that temperature and relative humidity data for the FRM filter laboratory were not being archived as required by the Idaho Quality Assurance Plan and EPA regulations. The EPA's audit ¹¹

concluded that, due to this lack of laboratory data, FRM filter weight determinations and the resulting FRM concentration data cannot be confirmed to meet data quality objectives. Idaho concurred with this finding and subsequently changed the status of the affected data for 2011–2014 in AQS to "non-regulatory." The EPA therefore cannot confirm the accuracy of the monitoring data cited in Idaho's request.

The EPA has thus evaluated the information submitted by Idaho for its portion of the nonattainment area and the relevant monitoring data for the entire area for calendar year 2015 and has determined that the area does not meet the air quality criterion for a 1-year extension to the CAA section 188(c)(1) Moderate area attainment date. Given the lack of complete and valid data from Utah, and the lack of valid, historical data from Idaho, the EPA is unable to determine whether the entire nonattainment area has a 98th percentile of 35 $\mu\text{g}/\text{m}^3$ or less for the year preceding the extension year. Therefore, the EPA has determined that Idaho's request for a 1-year extension to the Moderate attainment date for the Idaho portion of the Logan, Utah-Idaho nonattainment area should be denied, and is instead proposing to determine that the Logan, Utah-Idaho nonattainment area failed to attain the 2006 24-hour $\text{PM}_{2.5}$ NAAQS by the applicable attainment date.

If the EPA determines that an area has failed to attain by its attainment date, CAA section 188(b)(2) requires that those areas be reclassified to Serious as of the time that the EPA publishes the notice identifying the areas that have failed to attain by their attainment date. Accordingly, the EPA is proposing that the following four Moderate areas failed to attain the 2006 24-hour $\text{PM}_{2.5}$ NAAQS by December 31, 2015, and will be reclassified to Serious: Fairbanks, Alaska; Logan Utah-Idaho; Provo, Utah and Salt Lake City, Utah. The EPA is taking comment on these proposed determinations of failure to attain and subsequent reclassifications of each of these four nonattainment areas from Moderate to Serious.

V. Summary of Proposed Actions

The actions proposed in this notice affect 11 nonattainment areas for the 2006 24-hour $\text{PM}_{2.5}$ NAAQS currently classified as Moderate. The EPA is proposing to determine that the following seven areas attained the NAAQS by the applicable attainment date of December 31, 2015: (1) Chico,

CA; (2) Imperial County, CA; (3) Knoxville-Sevierville-La Follette, TN; (4) Liberty-Clairton, PA; (5) Nogales, AZ; (6) San Francisco, CA and (7) Sacramento, CA. The EPA is also proposing to determine that the following four Moderate areas failed to attain the 2006 $\text{PM}_{2.5}$ NAAQS by the December 31, 2015, attainment date and thus will be reclassified to Serious: (1) Fairbanks, AK; (2) Logan UT-ID; (3) Provo, UT; and, (4) Salt Lake City, UT. The EPA is taking comment on these proposed determinations of attainment by the attainment date.

VI. 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 and was, therefore, not submitted to the Office of Management and Budget (OMB) for review.

B. Paperwork Reduction Act (PRA)

This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* This proposed action to find that the Moderate $\text{PM}_{2.5}$ nonattainment areas listed in Table 1 have failed to attain the 2006 24-hour $\text{PM}_{2.5}$ NAAQS by their attainment date and to reclassify those areas as Serious $\text{PM}_{2.5}$ nonattainment areas does not establish any new information collection burden.

C. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. This action will not impose any requirements on small entities. Determinations of attainment and the resulting reclassification of nonattainment areas by operation of law under section 188(b)(2) of the CAA do not in and of themselves create any new requirements. Instead, this rulemaking only makes a factual determination, and does not directly regulate any entities.

D. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. The EPA believes, as discussed previously in this document, that the finding of nonattainment is a factual determination based upon air quality considerations and that the resulting reclassification of an area and the associated required revisions to state

15, 2015 and February 26, 2016, regarding a 1-year extension of the attainment date for the Logan UT-ID nonattainment area. Copies of these letters are available in the docket for this rulemaking.

¹¹ See "Final Technical Systems Audit Report for the Idaho Department of Environmental Quality,"

January 16, 2015. This report is within the rulemaking docket.

implementation plans must occur by operation of law. Thus, this action imposes no enforceable duty on any state, local or tribal governments or the private sector.

E. Executive Order 13132: Federalism

This action 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. This action merely proposes to determine whether the 2006 24-hour PM_{2.5} nonattainment areas listed in Table 1 attained the 2006 24-hour PM_{2.5} NAAQS by the applicable attainment date and to reclassify as "Serious" the 2006 24-hour PM_{2.5} nonattainment areas that did not do so.

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

This action does not have tribal implications as specified in Executive Order 13175. No tribal areas are implicated in the four areas that the EPA is proposing to find failed to attain the 2006 24-hour PM_{2.5} NAAQS by the applicable attainment date. The CAA and the Tribal Authority Rule establish the relationship of the federal government and tribes in developing plans to attain the NAAQS, and this rule does nothing to modify that relationship. Thus, Executive Order 13175 does not apply to this action.

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

This action is not subject to Executive Order 13045 because it is not economically significant as defined in Executive Order 12866, and because the EPA does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. This action merely proposes to determine that four 2006 24-hour PM_{2.5} nonattainment areas, identified in Table 1, did not attain the 2006 24-hour PM_{2.5} standard by their applicable attainment date and to reclassify these areas as Serious PM_{2.5} nonattainment areas.

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

This action is not subject to Executive Order 13211, because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act (NTTAA)

This rulemaking does not involve technical standards. This action merely proposes to determine that four 2006 24-hour PM_{2.5} nonattainment areas (identified in Table 1) did not attain the 2006 24-hour PM_{2.5} standard by their applicable attainment date and to reclassify these areas as Serious PM_{2.5} nonattainment areas.

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

The EPA believes that this action does not have disproportionately high and adverse human health or environmental effects on minority populations, low-income populations and/or indigenous peoples, as specified in Executive Order 12898 (59 FR 7629, February 16, 1994). This action merely proposes to determine that four 2006 24-hour PM_{2.5} nonattainment areas identified in Table 1, did not attain by the applicable attainment date and to reclassify these nonattainment areas as Serious PM_{2.5} nonattainment areas.

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Nitrogen oxides, Fine particulate matter, Ammonia, Sulfur dioxides, Volatile organic compounds, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

40 CFR 81

Environmental protection, Air pollution control, Nitrogen oxides, Fine particulate matter, Ammonia, Sulfur dioxides, Volatile organic compounds, Intergovernmental relations, Reporting and recordkeeping requirements.

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

Dated: December 1, 2016.

Gina McCarthy,
Administrator.

For the reasons stated in the preamble, Title 40, Chapter I of the Code of Federal Regulations is proposed to be 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 D—Arizona

■ 2. Section 52.131 is amended by adding paragraph (c) to read as follows:

§ 52.131 Control Strategy and regulations: Fine Particle Matter.

* * * * *

(c) *Determination of Attainment.* Effective [DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE **FEDERAL REGISTER**], the EPA has determined that, based on 2013–2015 ambient air quality data, the Nogales, AZ PM_{2.5} nonattainment area has attained the 2006 24-hour PM_{2.5} NAAQS by the applicable attainment date of December 31, 2015. Therefore, the EPA has met the requirement pursuant to CAA section 188(b)(2) to determine whether the area attained the standard. The EPA also has determined that the Nogales, AZ nonattainment area will not be reclassified for failure to attain by its applicable attainment date under section 188(b)(2).

Subpart F—California

■ 3. Section 52.247 is amended by adding paragraphs (i), (j), (k) and (l) to read as follows:

§ 52.247 Control Strategy and regulations: Fine Particle Matter.

* * * * *

(i) *Determination of Attainment.* Effective [DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE **FEDERAL REGISTER**], the EPA has determined that, based on 2013–2015 ambient air quality data, the Chico, CA PM_{2.5} nonattainment area has attained the 2006 24-hour PM_{2.5} NAAQS by the applicable attainment date of December 31, 2015. Therefore, the EPA has met the requirement pursuant to CAA section 188(b)(2) to determine whether the area attained the standard. The EPA also has determined that the Chico, CA nonattainment area will not be reclassified for failure to attain by its applicable attainment date under section 188(b)(2).

(j) *Determination of Attainment.* Effective [DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE **FEDERAL REGISTER**], the EPA has determined that, based on 2013–2015 ambient air quality data, the Imperial County, CA PM_{2.5} nonattainment area has attained the 2006 24-hour PM_{2.5} NAAQS by the applicable attainment date of December 31, 2015. Therefore, the EPA has met the requirement pursuant to CAA section 188(b)(2) to determine whether the area attained the standard. The EPA also has determined that the Imperial County, CA nonattainment area will not

be reclassified for failure to attain by its applicable attainment date under section 188(b)(2).

(k) *Determination of Attainment.* Effective [DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE **FEDERAL REGISTER**], the EPA has determined that, based on 2013–2015 ambient air quality data, the Sacramento, CA PM_{2.5} nonattainment area has attained the 2006 24-hour PM_{2.5} NAAQS by the applicable attainment date of December 31, 2015. Therefore, the EPA has met the requirement pursuant to CAA section 188(b)(2) to determine whether the area attained the standard. The EPA also has determined that the Sacramento, CA nonattainment area will not be reclassified for failure to attain by its applicable attainment date under section 188(b)(2).

(l) *Determination of Attainment.* Effective [DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE **FEDERAL REGISTER**], the EPA has determined that, based on 2013–2015 ambient air quality data, the San Francisco Bay, CA PM_{2.5} nonattainment area has attained the 2006 24-hour PM_{2.5} NAAQS by the applicable attainment date of December 31, 2015. Therefore, the EPA has met the requirement pursuant to CAA section 188(b)(2) to determine whether the area attained the standard. The EPA also has determined that the San Francisco Bay, CA nonattainment area will not be reclassified for failure to attain by its applicable attainment date under section 188(b)(2).

Subpart NN—Pennsylvania

■ 4. Section 52.2059 is amended by adding paragraph (u) to read as follows:

§ 52.2059 Control strategy: Particulate matter.

* * * * *

(u) *Determination of Attainment.* Effective [DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE **FEDERAL REGISTER**], the EPA has determined that, based on 2013–2015 ambient air quality data, the Liberty-Clairton, PA PM_{2.5} nonattainment area has attained the 2006 24-hour PM_{2.5} NAAQS by the applicable attainment date of December 31, 2015. Therefore, the EPA has met the requirement pursuant to CAA section 188(b)(2) to determine whether the area attained the standard. The EPA also has determined that the Liberty-Clairton, PA nonattainment area will not be reclassified for failure to attain by its applicable attainment date under section 188(b)(2).

* * * * *

Subpart RR—Tennessee

■ 5. Section 52.2231 is amended by adding paragraph (f) to read as follows:

§ 52.2231 Control strategy: Sulfur oxides and particulate matter.

* * * * *

(f) *Determination of Attainment.* Effective [DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE **FEDERAL REGISTER**], the EPA has determined

ALASKA—2006 24-HOUR PM_{2.5} NAAQS
[Primary and secondary]

that, based on 2013–2015 ambient air quality data, the Knoxville-Sevierville-La Follette, Tennessee PM_{2.5} nonattainment area has attained the 2006 24-hour PM_{2.5} NAAQS by the applicable attainment date of December 31, 2015. Therefore, the EPA has met the requirement pursuant to CAA section 188(b)(2) to determine whether the area attained the standard. The EPA also has determined that the Knoxville-Sevierville-La Follette, Tennessee nonattainment area will not be reclassified for failure to attain by its applicable attainment date under section 188(b)(2).

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

■ 6. The authority citation for part 81 continues to read as follows:

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

Subpart C—Section 107 Attainment Status Designations

■ 7. Section 81.302 is amended in the table for “Alaska—2006 24-Hour PM_{2.5} NAAQS (Primary and secondary)” by revising the entries for “Fairbanks, AK” to read as follows:

§ 81.302 Alaska.

* * * * *

Designated area	Designation ^a		Classification	
	Date ¹	Type	Date ²	Type
Fairbanks, AK: AQCR 09 Northern Alaska Intrastate: Fairbanks North Star Borough (part)		Nonattainment	[DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].	Serious.
The following townships and ranges:—MTRS F001N001—All Sections; —MTRS F001N001E—Sections 2–11, 14–23, 26–34; —MTRS F001N002—Sections 1–5, 8–17, 20– 29, 32–36; —MTRS F001S001E—Sections 1, 3–30, 32–36; —MTRS F001S001W—Sections 1–30; —MTRS F001S002E—Sections 6–8, 17–20, 29–36; —MTRS F001S002W—Sec- tions 1–5, 8–17, 20–29, 32–33; —MTRS F001S003E—Sections 31–32; —MTRS F002N001E—Sections 31–35; —MTRS F002N001—Sections 28, 31–36; —MTRS F002N002—Sections 32–33, 36; —MTRS F002S001E—Sections 1–2; —MTRS F002S002E—Sections 1–17, 21–24; —MTRS F002S003E—Sections 5–8, 18				
	*	*	*	*

^a Includes Indian Country located in each county or area, except as otherwise specified.
¹ This date is 30 days after November 13, 2009, unless otherwise noted.
² This date is July 2, 2014, unless otherwise noted.

* * * * *
 ■ 8. Section 81.313 is amended in the table for “Idaho—2006 24-Hour PM_{2.5}

NAAQS (Primary and secondary)” by revising the entries for “Franklin County, ID” to read as follows:

§ 81.313 Idaho.
 * * * * *

IDAHO—2006 24-HOUR PM_{2.5} NAAQS
 [Primary and secondary]

Designated area	Designation ^a		Classification	
	Date ¹	Type	Date ²	Type
Logan, UT-ID: Franklin County (part)		Nonattainment	[DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].	Serious.
<p>Begin in the bottom left corner (southwest) of the nonattainment area boundary, southwest corner of the PLSS-Boise Meridian, Township 16 South, Range 37 East, Section 25. The boundary then proceeds north to the northwest corner of Township 15 South, Range 37 East, Section 25; then the boundary proceeds east to the southeast corner of Township 15 South, Range 38 East, Section 19; then north to the Franklin County boundary at the northwest corner of Township 13 South, Range 38 East, Section 20. From this point the boundary proceeds east 3.5 sections along the northern border of the county boundary where it then turns south 2 sections, and then proceeds east 5 more sections, and then north 2 sections more. At this point, the boundary leaves the county boundary and proceeds east at the southeast corner of Township 13 South, Range 39 East, Section 14; then the boundary heads north 2 sections to northwest corner of Township 13 South, Range 39 east, Section 12; then the boundary proceeds east 2 sections to the northeast corner of Township 13 South, Range 40 East, Section 7. The boundary then proceeds south 2 sections to the northwest corner of Township 13 South, Range 40 East, Section 20; the boundary then proceeds east 6 sections to the northeast corner of Township 13 South, Range 41 East, Section 19. The boundary then proceeds south 20 sections to the southeast corner of Township 16 South, Range 41 East, Section 30. Finally, the boundary is completed as it proceeds west 20 sections along the southern Idaho state boundary to the southwest corner of the Township 16 South, Range 37 East, Section 25.</p>				

^aIncludes Indian Country located in each county or area, except as otherwise specified.
¹This date is 30 days after November 13, 2009, unless otherwise noted.
²This date is July 2, 2014, unless otherwise noted.

* * * * *
 ■ 9. Section 81.345 is amended in the table for “Utah—2006 24-Hour PM_{2.5} NAAQS (Primary and secondary)” by

revising the entries for “Logan, UT-ID,” “Provo, UT”, and “Salt Lake City, UT” to read as follows:

§ 81.345 Utah.
 * * * * *

UTAH—2006 24-HOUR PM_{2.5} NAAQS
 [Primary and secondary]

Designated area	Designation ^a		Classification	
	Date ¹	Type	Date ²	Type
Logan, UT-ID: Cache County (part)		Nonattainment	[DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].	Serious.
<p>All portions of Cache County west of and including any portion of the following townships located within Utah: Township 15 North Range 1 East; Township 14 North Range 1 East; Township 13 North Range 1 East; Township 12 North Range 1 East; Township 11 North Range 1 East; Township 10 North Range 1 East; Township 9 North Range 1 East.</p>				
Provo, UT: Utah County (part)		Nonattainment	[DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].	Serious.

UTAH—2006 24-HOUR PM_{2.5} NAAQS—Continued
 [Primary and secondary]

Designated area	Designation ^a		Classification	
	Date ¹	Type	Date ²	Type
The area of Utah County that lies west of the Wasatch Mountain Range (and this includes the Cities of Provo and Orem) with an eastern boundary for Utah County to be defined as the following Townships: Township 3 South Range 1 East; Township 4 South Range 2 East; Township 5 South Range 3 East; Township 6 South Range 3 East; Township 7 South Range 3 East; Township 8 South Range 3 East; Township 9 South Range 3 East; Township 10 South Range 2 East.				
Salt Lake City, UT:				
Box Elder County (part)	Nonattainment	[DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].	Serious.
The following Townships or portions thereof as noted (including Brigham City): Township 7 North Range 2 West; Township 8 North Range 2 West; Township 9 North Range 2 West; Township 10 North Range 2 West; Township 11 North Range 2 West; Township 12 North Range 2 West; Township 13 North Range 2 West; Township 9 North Range 3 West; Township 10 North Range 3 West; Township 11 North Range 3 West; Township 12 North Range 3 West; Township 13 North Range 3 West; Township 13 North Range 4 West; Township 12 North Range 4 West; Township 11 North Range 4 West; Township 10 North Range 4 West; Township 9 North Range 4 West; Township 13 North Range 5 West; Township 12 North Range 5 West; Township 11 North Range 5 West; Township 10 North Range 5 West; Township 9 North Range 5 West; Township 13 North Range 6 West; Township 12 North Range 6 West; Township 11 North Range 6 West; Township 10 North Range 6 West; Township 9 North Range 6 West; Township 7 North Range 1 West (portion located in Box Elder County); Township 8 North Range 1 West (portion located in Box Elder County); Township 9 North Range 1 West (portion located in Box Elder County).				
Davis County	Nonattainment	[DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].	Serious.
Salt Lake County	Nonattainment	[DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].	Serious.
Tooele County (part)	Nonattainment	[DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].	Serious.
The following Townships or portions thereof as noted (including Tooele City: Township 1 South Range 3 West; Township 2 South Range 3 West; Township 3 South Range 3 West; Township 3 South Range 4 West; Township 2 South Range 4 West; Township 2 South Range 5 West; Township 3 South Range 5 West; Township 3 South Range 6 West; Township 2 South Range 6 West; Township 1 South Range 6 West; Township 1 South Range 5 West; Township 1 South Range 4 West; Township 1 South Range 7 West; Township 2 South Range 7 West; Township 3 South Range 7 West; all Sections within Township 4 South Range 7 West except for Sections 29, 30, 31 and 32; Township 4 South Range 6 West; Township 4 South Range 5 West; Township 4 South Range 4 West; Township 4 South Range 3 West.				
Weber County (part)	Nonattainment	[DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].	Serious.

UTAH—2006 24-HOUR PM_{2.5} NAAQS—Continued
[Primary and secondary]

Designated area	Designation ^a		Classification	
	Date ¹	Type	Date ²	Type
The area of Weber County that lies west of the Wasatch Mountain Range with an eastern boundary for Weber County to be defined as the following Townships (or portion thereof) extending to the western boundary of Weber County: Township 5 North Range 1 West; Township 6 North Range 1 West; all Sections within Township 7 North Range 1 West located within Weber County except for Sections 1, 2, 3, 4, 11, 12, 13 and 24; Township 7 North Range 2 West (portion located in Weber County).				
*	*	*	*	*

^a Includes Indian Country located in each county or area, except as otherwise specified.

¹ This date is 30 days after November 13, 2009, unless otherwise noted.

² This date is July 2, 2014, unless otherwise noted.

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[FR Doc. 2016–30174 Filed 12–15–16; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 223

[Docket No. 161109999–6999–01]

RIN 0648–BG45

Sea Turtle Conservation; Shrimp Trawling Requirements

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

ACTION: Proposed rule; request for comments; notice of public hearings.

SUMMARY: We are proposing to withdraw the alternative tow time restriction and require all skimmer trawls, pusher-head trawls, and wing nets (butterfly trawls) rigged for fishing—with the exception of vessels participating in the Biscayne Bay wing net fishery prosecuted in Miami-Dade County, Florida—to use turtle excluder devices (TEDs) designed to exclude small turtles in their nets. The intent of this proposed rule is to reduce incidental bycatch and mortality of sea turtles in the southeastern U.S. shrimp fisheries, and to aid in the protection and recovery of listed sea turtle populations. We also are proposing to amend the definition of tow times to better clarify the intent and purpose of tow times to reduce sea turtle mortality, and to refine additional portions of the TED requirements to avoid potential confusion.

DATES: Written comments (see **ADDRESSES**) will be accepted through February 14, 2017. Public hearings on the proposed rule will be held in January 2017. See **SUPPLEMENTARY INFORMATION** for meeting dates, times, and locations.

ADDRESSES: You may submit comments on this proposed rule, identified by 0648–BG45, by any of the following methods:

- *Federal e-Rulemaking Portal:* Go to [www.regulations.gov/#!docketDetail;D=\[NOAA-NMFS-2016-0151\]](http://www.regulations.gov/), click the “Comment Now!” icon, complete the required fields, and enter or attach your comments
- Mail: Michael Barnette, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.
- Fax: 727–824–5309; Attention: Michael Barnette.

Instructions: NMFS may not consider comments if they are sent by any other method, to any other address or individual, or received after the comment period ends. All comments received are a part of the public record and NMFS will generally post for public viewing on www.regulations.gov without change. All personal identifying information (for example, name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter N/A in the required fields, if you wish to remain anonymous). You may submit attachments to electronic comments in Microsoft Word, Excel, or Adobe PDF file formats only.

FOR FURTHER INFORMATION CONTACT: Michael Barnette, 727–551–5794.

SUPPLEMENTARY INFORMATION:

Background

All sea turtles in U.S. waters are listed as either endangered or threatened under the Endangered Species Act of 1973 (ESA). In the Atlantic Ocean and Gulf of Mexico, the Kemp’s ridley (*Lepidochelys kempii*), leatherback (*Dermodochelys coriacea*), and hawksbill (*Eretmodochelys imbricata*) turtles are listed as endangered. The loggerhead (*Caretta caretta*; Northwest Atlantic Ocean distinct population segment) and green (*Chelonia mydas*; North Atlantic and South Atlantic Ocean distinct population segments) turtles are listed as threatened.

Sea turtles are incidentally taken, and some are killed, as a result of numerous activities including fishery-related trawling activities in the Gulf of Mexico and along the Atlantic seaboard. Under the ESA and its implementing regulations, taking (harassing, injuring or killing) sea turtles is prohibited, except as identified in 50 CFR 223.206 in compliance with the terms and conditions of a biological opinion issued under section 7 of the ESA, or in accordance with an incidental take permit issued under section 10 of the ESA. Incidental takes of threatened sea turtles during shrimp trawling are exempt from the taking prohibition of section 9 of the ESA so long as the conservation measures specified in the sea turtle conservation regulations (50 CFR 223.206) are followed. The same conservation measures also apply to endangered sea turtles (50 CFR 224.104).

The regulations require most shrimp trawlers operating in the southeastern United States to have an approved TED installed in each net that is rigged for fishing, to allow sea turtles to escape. Approved TED types include single-grid