(iii) The applicable further provisions of this section and §§ 3.1601 through 3.1610.

(2) For claims filed before December 16, 2003:

* * * * *

■ 16. Amend § 3.1604 by:

■ a. Revising the authority citation at the end of paragraph (c).

■ b. Revising paragraph (d)(1)(i).

■ c. Adding paragraph (d)(5) following the authority citation at the end of paragraph (d)(4).

The revisions and addition read as follows:

§ 3.1604 Payment from non-Department of Veterans Affairs sources.

* * * * *

(c) * * *

(Authority: 38 U.S.C. 2303(b)(1)).

(d) * * *

(1) * * *

(i) The plot or interment allowance is payable based on the deceased veteran's eligibility for burial in a national cemetery (or, in claims filed prior to December 16, 2003, the deceased veteran's service). See § 38.620 of this chapter.

* * * * *

(5) A plot or interment allowance may be paid to a state in addition to a burial allowance under § 3.1600(a) for claims filed on or after December 16, 2003.

[FR Doc. E6–12787 Filed 8–7–06; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[EPA–R09–OAR–2006–AZ–0388; FRL–8206–4]

Approval and Promulgation of Implementation Plans; Designation of Areas for Air Quality Planning Purposes; State of Arizona; Finding of Attainment for Rillito Particulate Matter of 10 Microns or Less (PM_{10}) Nonattainment Area; Determination Regarding Applicability of Certain Clean Air Act Requirements; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to determine that the Rillito moderate PM_{10} nonattainment area in Arizona attained the National Ambient Air Quality Standards for particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM_{10}) by the applicable attainment date. EPA also finds that the Rillito area is currently attaining the PM_{10} standards, and based on this latter finding, EPA is determining that certain Clean Air Act requirements are not applicable for so long as the Rillito area continues to attain the PM_{10} standards. Lastly, EPA is correcting an error in a previous rulemaking that involved the classification of PM_{10} nonattainment areas within the State of Arizona.

DATES: This rule is effective on October 10, 2006, without further notice, unless EPA receives adverse comments by September 7, 2006. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R09–OAR–2006–AZ–0388 by one of the following methods:

- Federal eRulemaking portal: *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- E-mail: *tax.wienke@epa.gov.*
- Fax: (415) 947–3579 (please alert the individual listed in the **FOR FURTHER INFORMATION CONTACT** if you are faxing comments).
- Mail: Wienke Tax, Office of Air Planning, Environmental Protection Agency (EPA), Region 9, Mailcode AIR–2, 75 Hawthorne Street, San Francisco, California 94105–3901.
- Hand Delivery: Wienke Tax, Office of Air Planning, Environmental Protection Agency (EPA), Region 9, Mailcode AIR–2, 75 Hawthorne Street, San Francisco, California 94105–3901. Such deliveries are only accepted Monday through Friday, 8 a.m. to 4:55 p.m., excluding Federal holidays. Special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–R09–OAR–2006–AZ–0388. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA, without going through *http://www.regulations.gov*, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

Docket: All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the Office of Air Planning, Environmental Protection Agency (EPA), Region 9, Mailcode AIR–2, 75 Hawthorne Street, San Francisco, California 94105–3901. EPA requests that if at all possible, you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view the hard copy of the docket. You may view the hard copy of the docket Monday through Friday, 8 a.m. to 4 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Wienke Tax, Office of Air Planning, Environmental Protection Agency (EPA), Region 9, Mailcode AIR–2, 75 Hawthorne Street, San Francisco, California 94105–3901, (520) 622–1622, *tax.wienke@epa.gov.*

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

Table of Contents

I. Background

A. What National Ambient Air Quality Standards (NAAQS) Are Considered In Today's Finding?

National Ambient Air Quality Standards (NAAQS) are safety thresholds for certain ambient air pollutants set by EPA to protect public health and welfare. Particulate matter with an aerodynamic diameter of less than or equal to 10 micrometers, or PM_{10}, is the subject of this action. PM_{10} is among the ambient air pollutants for which EPA has established health-based standards.

PM_{10} causes adverse health effects by penetrating deep in the lungs, aggravating the cardiopulmonary system. Children, the elderly, and people with asthma and heart conditions are the most vulnerable.

On July 1, 1987 (52 FR 24634), EPA revised the NAAQS for particulate matter with an indicator that includes only those particles with an aerodynamic diameter less than or equal to a nominal 10 micrometers. See 40 CFR 50.6. The 24-hour primary PM_{10} standard is 150 micrograms per cubic meter (µg/m3) with no more than one expected exceedance per year. The annual primary PM_{10} standard is 50 µg/m3 as an annual arithmetic mean. The secondary PM_{10} standards, promulgated to protect against adverse welfare effects, are identical to the primary standards.

B. What Is the Designation and Classification of This PM_{10} Nonattainment Area?

Upon enactment of the 1990 Clean Air Act Amendments (CAA or the Act), PM_{10} areas meeting the requirements of either (i) or (ii) of section 107(d)(4)(B) of the Act were designated nonattainment for PM_{10} by operation of law and classified ''moderate.'' These areas included all former Group I PM_{10} planning areas identified in 52 FR 29383 (August 7, 1987) and further clarified in 55 FR 45799 (October 31, 1990), and any other areas violating the NAAQS for PM_{10} prior to January 1, 1989 (many of these areas were identified by footnote 4 in the October 31, 1990 **Federal Register** document). A **Federal Register** notice announcing the areas designated nonattainment for PM_{10} upon enactment of the 1990 Act Amendments, known as ''initial'' PM_{10} nonattainment areas, was published on March 15, 1991 (56 FR 11101). A subsequent **Federal Register** document correcting some of these areas was published on August 8, 1991 (56 FR 37654). These nonattainment designations and moderate area classifications were codified in 40 CFR part 81 in a **Federal Register** document published on November 6, 1991 (56 FR 56694). All other areas in the nation not designated nonattainment at enactment were designated unclassifiable (see section 107(d)(4)(B)(iii) of the Act).

The Rillito planning area was among the areas listed by EPA as a Group I area (see 52 FR 29383, August 7, 1987) and was designated nonattainment for PM_{10} by operation of law and classified ''moderate.'' In accordance with section 189(a)(2) of the CAA, Arizona was to submit a state implementation plan (SIP) by November 15, 1991 demonstrating attainment of the PM_{10} standards by December 31, 1994 for the Rillito area.[1]

C. How Do We Make Attainment Determinations?

Pursuant to sections 179(c)(1) and 188(b)(2) of the Act, we have the responsibility of determining within six months of the applicable attainment date whether, based on air quality data, PM_{10} nonattainment areas attained the NAAQS by that date. The ''applicable attainment date'' is December 31, 1994 for areas, such as Rillito, that were designated as ''moderate'' nonattainment for PM_{10} by operation of law under the 1990 Amended Act. Determinations under section 179(c)(1) of the Act are to be based upon an area's ''air quality as of the attainment date.'' Section 188(b)(2) is consistent with this requirement.

Generally, we will determine whether an area's air quality meets the PM_{10} NAAQS for purposes of section 179(c)(1) and 188(b)(2) based upon data gathered at established state and local air monitoring stations (SLAMS) and national air monitoring stations (NAMS) in the nonattainment area and entered into EPA's Air Quality System (AQS) database. Data entered into the AQS have been determined to meet federal monitoring requirements (see 40 CFR 50.6; 40 CFR part 50, appendix J; 40 CFR part 53; 40 CFR part 58, appendices A and B) and may be used to determine the attainment status of areas. We will also consider air quality data from other air monitoring stations in the nonattainment area provided that the stations meet the federal monitoring requirements for SLAMS. All data are reviewed to determine the area's air quality status in accordance with our guidance at 40 CFR part 50, appendix K.

Attainment of the annual PM_{10} standard is achieved when the annual arithmetic mean PM_{10} concentration over a three-year period is equal to or less than 50 µg/m^3. Attainment of the 24-hour standard is determined by calculating the expected number of days in a year with PM_{10} concentrations greater than 150 µg/m^3. The 24-hour standard is attained when the expected number of days with levels above 150 µg/m^3 (averaged over a three-year period) is less than or equal to one. Three consecutive years of air quality data are necessary to show attainment of the 24-hour and annual standards for PM_{10}. See 40 CFR part 50, appendix K. A complete year of air quality data, as referred to in 40 CFR part 50, appendix K, is composed of all four calendar quarters with each quarter containing data from at least 75 percent of the scheduled sampling days.

II. What Is the Basis for EPA's Determination That the Rillito Area Has Attained the PM_{10} NAAQS?

The Rillito PM_{10} nonattainment area is located in north central Pima County, just northwest of the Tucson metropolitan area in southern Arizona.[2] The nonattainment area encompasses the following nine townships: T11S, R9E through R12E; and T12S, R8E through R12E. The incorporated Town of Marana with a population of approximately 8,000 is located within the nonattainment area. A smaller community, the unincorporated town of Rillito, is located in the portion of the nonattainment area historically associated with maximum ambient PM_{10} concentrations. The land use around Rillito is predominantly agricultural. The only major (i.e., greater than 100 tons per year) stationary point source of air pollution in the nonattainment area

[1] Arizona submitted a moderate area PM_{10} plan for the Rillito area on November 14, 1991. EPA found this plan to be incomplete by letter dated May 14, 1992. On April 22, 1994, ADEQ submitted a revised PM_{10} plan for Rillito, and EPA found it to be complete by letter dated August 18, 1994. EPA has not taken action on this 1994 PM_{10} plan.

[2] In a 1996 rulemaking (61 FR 21372, May 10, 1996) in which we found that the Phoenix Planning Area had not attained the PM_{10} NAAQS by the applicable attainment date for moderate PM_{10} nonattainment areas and thus reclassified the area as ''serious'', we inadvertently introduced an error into the ''Arizona—PM–10'' table in 40 CFR 81.303 by moving the entry for the Rillito planning area from Pima County to Santa Cruz County. We are correcting this error in today's notice under CAA section 110(k)(6).

is an Arizona Portland Cement (APC) plant. APC is permitted by ADEQ. Most of the other stationary sources are sand and gravel operations mining the alluvial deposits of the Santa Cruz River basin. The area in and around the nonattainment area is expected to change from rural agricultural to residential because it will absorb residential development from the Tucson metropolitan area.

The Rillito PM_{10} nonattainment area has one SLAMS monitor operated by the Arizona Department of Environmental Quality (ADEQ). Located at 8820 West Water Street within the community of Rillito, this monitor is approximately 0.5 miles northwest of the Arizona Portland Cement plant. This monitor was selected by ADEQ to represent maximum PM_{10} concentration in the area to which the public is exposed. Table 1 summarizes the one-in-six day PM_{10} data collected there from 1988–2005.

TABLE 1.—SUMMARY OF 24 HOUR AND ANNUAL PM_{10} CONCENTRATIONS (µG/M3) FOR RILLITO, 1988–2005

Year	PM_{10} Concentrations		
	Maximum 24-hour concentration	Annual average	3-year annual average
1988	163	***69.2**	NA
1989	170	***83.3**	NA
1990	94	*39.0	***63.8**
1991	133	37.1	***53.1**
1992	96	33.6	*36.6
1993	68	27.6	32.8
1994	63	28.3	29.8
1995	91	36.2	30.7
1996	84	38.3	34.3
1997	129	41.9	38.8
1998	81	32.4	37.5
1999	102	37.8	37.4
2000	129	*42.1	*37.4
2001	89	33.6	*37.8
2002	70	37.1	*37.6
2003	118	39.5	36.7
2004	93	32.2	36.3
2005	84	39.1	36.9

* Indicates that the mean does not satisfy criteria for a complete data set.
* Values shown in **bold** text represent exceedances of the applicable standard.

As noted above, the 24-hour PM_{10} standard is attained when the expected number of days with levels above 150 µg/m3 (averaged over a three-year period) is less than or equal to one. Based on the data summarized in table 1, above, we find no exceedances of the 24-hour PM_{10} standard for the 1992–1994 period and thus the expected number of days with levels above 150 µg/m3 (averaged over that three-year period) is zero. As such, we find that Rillito attained the 24-hour PM_{10} NAAQS by the applicable attainment date (1994). Furthermore, since 1994, no exceedances of the 24-hour PM_{10} standard have been recorded at the Rillito monitoring station and thus, we find that the area has continued to attain, and is currently attaining, the 24-hour standard.

Also as noted above, attainment of the annual PM_{10} standard is achieved when the annual arithmetic mean PM_{10} concentration over a three-year period is equal to or less than 50 µg/m3. Review of the data for calendar years 1992–1994 reveals an arithmetic average of 29.8 µg/m3. As such, we find that Rillito attained the annual PM_{10} standard by the applicable attainment date (1994). Since 1994, there have been no exceedances of the annual PM_{10} standard, and thus, we find that the area has continued to attain, and is currently attaining, the annual standard.

III. What Are The Applicable Planning Requirements For The Rillito Area As A Result Of EPA's Attainment Determination?

The air quality planning requirements for moderate PM_{10} nonattainment areas, such as the Rillito nonattainment area, are set out in part D, subparts 1 and 4 of title I of the Act. We have issued guidance in a General Preamble [3] describing how we will review SIPs and SIP revisions submitted under title I of the Act, including those containing moderate PM_{10} nonattainment area SIP provisions.

In some designated nonattainment areas, monitored data demonstrates that the NAAQS has already been achieved. Based on its interpretation of the Act, EPA has determined that certain requirements of part D, subparts 1 and 2 (of title I) of the Act do not apply and therefore do not require certain submissions for an area that has attained the NAAQS. These include reasonable further progress (RFP) requirements, attainment demonstrations and contingency measures, because these provisions have the purpose of helping achieve attainment of the NAAQS.

EPA's Clean Data Policy is the subject of two memoranda setting forth our interpretation of the provisions of the Act as they apply to areas that have attained the relevant NAAQS. EPA also finalized the statutory interpretation set forth in the policy in a final rule, 40 CFR 51.918, as part of its ''Final Rule to Implement the 8-hour Ozone National Ambient Air Quality Standard—Phase 2'' (Phase 2 Final Rule). See discussion in the preamble to the rule at 70 FR 71645–71646 (November 29, 2005). EPA believes that the legal bases set forth in detail in our Phase 2 Final Rule; our May 10, 1995 memorandum from John S. Seitz, entitled ''Reasonable Further Progress, Attainment Demonstration, and Related Requirements for Ozone Nonattainment Areas Meeting the Ozone National Ambient Air Quality Standard'' (Seitz memo); and our

[3] ''General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990'' (57 FR 13498, April 16, 1992, as supplemented 57 FR 18070, April 28, 1992).

December 14, 2004 memorandum from Stephen D. Page entitled ''Clean Data Policy for the Fine Particle National Ambient Air Quality Standards'' (Page memo) are equally pertinent to the interpretation of provisions of subparts 1 and 4 applicable to PM_{10}. EPA's interpretation of how the provisions of the Act apply to areas with ''clean data'' is not logically limited to ozone and $PM_{2.5}$, because the rationale is not dependent upon the type of pollutant. Our interpretation that an area that is attaining the standard is relieved of obligations to demonstrate RFP and to provide an attainment demonstration and contingency measures pursuant to part D of the CAA, pertains whether the standard is PM_{10}, ozone, or $PM_{2.5}$.

The reasons for relieving an area that has attained the relevant standard of certain part D, subparts 1 and 2 obligations, applies equally to part D, subpart 4, which contains specific attainment demonstration and RFP provisions for PM_{10} nonattainment areas. As we have explained in the Phase 2 Final Rule and our ozone and $PM_{2.5}$ clean data memoranda, EPA believes it is reasonable to interpret provisions regarding RFP and attainment demonstrations, along with related requirements, so as not to require SIP submissions if an area subject to those requirements is already attaining the NAAQS (*i.e.*, attainment of the NAAQS is demonstrated with three consecutive years of complete, quality-assured air quality monitoring data). Three U.S. Circuit Courts of Appeals have upheld EPA rulemakings applying its interpretation of subparts 1 and 2 with respect to ozone. *Sierra Club* v. *EPA*, 99 F.3d 1551 (10th Cir. 1996); *Sierra Club* v. *EPA*, 375 F.3d 537 (7th Cir. 2004); *Our Children's Earth Foundation* v. *EPA*, No. 04–73032 (9th Cir. June 28, 2005)(memorandum opinion). It has been EPA's longstanding interpretation that the general provisions of part D, subpart 1 of the Act (sections 171 and 172) do not require the submission of SIP revisions concerning RFP for areas already attaining the ozone NAAQS. In the General Preamble, we stated:

> [R]equirements for RFP will not apply in evaluating a request for redesignation to attainment since, at a minimum, the air quality data for the area must show that the area has already attained. Showing that the State will make RFP towards attainment will, therefore, have no meaning at that point. 57 FR at 13564.

EPA believes the same reasoning applies to the PM_{10} provisions of part D, subpart 4.

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

> Plan revisions demonstrating attainment submitted to the Administrator for approval under this subpart shall contain quantitative milestones which are to be achieved every 3 years until the area is redesignated attainment and which demonstrate reasonable further progress, as defined in section 7501(1) of this title, toward attainment by the applicable date.

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

If an area has in fact attained the standard, the stated purpose of the RFP requirement will have already been fulfilled.[4] EPA took this position with respect to the general RFP requirement of section 172(c)(2) in the April 16, 1992 General Preamble and also in the May 10, 1995 memorandum with respect to the requirements of sections 182(b) and (c). We are extending that interpretation to the specific provisions of part D, subpart 4. In the General Preamble, we stated, in the context of a discussion of the requirements applicable to the evaluation of requests to redesignate nonattainment areas to attainment, that the ''requirements for RFP will not apply in evaluating a request for redesignation to attainment since, at a minimum, the air quality data for the area must show that the area has already attained. Showing that the State will make RFP towards attainment will, therefore, have no meaning at that point.'' (57 FR 13564). See also our September 4, 1992 memorandum from John Calcagni, entitled ''Procedures for Processing Requests to Redesignate Areas to Attainment'' (Calcagni memo), p. 6.

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

Other SIP submission requirements are linked with these attainment demonstration and RFP requirements, and similar reasoning applies to them. These requirements include the contingency measure requirements of sections 172(c)(9) and 182(c)(9). We have interpreted the contingency measure requirements of sections 172(c)(9) and 182(c)(9) as no longer applying when an area has attained the standard because those ''contingency measures are directed at ensuring RFP

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

and attainment by the applicable date.'' (57 FR at 13564); Seitz memo, pp. 5–6.

Both sections 172(c)(1) and 189(a)(1)(C) require ''provisions to assure that reasonably available control measures'' (*i.e.*, RACM) are implemented in a nonattainment area. The General Preamble, 57 FR at 13560 (April 16, 1992), states that EPA interprets section 172(c)(1) so that RACM requirements are a ''component'' of an area's attainment demonstration. Thus, for the same reason the attainment demonstration no longer applies by its own terms, the requirement for RACM no longer applies. EPA has consistently interpreted this provision to require only implementation of potential RACM measures that could contribute to reasonable further progress or to attainment. General Preamble, 57 FR at 13498. Thus, where an area is already attaining the standard, no additional RACM measures are required.[5] EPA is interpreting section 189(a)(1)(C) consistent with its interpretation of section 172(c)(1).

Here, as in both our Phase 2 Final Rule and ozone and $PM_{2.5}$ clean data memoranda, we emphasize that the suspension of a requirement to submit SIP revisions concerning these RFP, attainment demonstration, RACM, and other related requirements exists only for as long as a nonattainment area continues to monitor attainment of the standard. If such an area experiences a violation of the NAAQS, the basis for the requirements being suspended would no longer exist. Therefore, the area would again be subject to a requirement to submit the pertinent SIP revision or revisions and would need to address those requirements. Thus, a determination that an area need not submit one of the SIP submittals amounts to no more than a suspension of the requirements for so long as the area continues to attain the standard. However, once EPA ultimately redesignates the area to attainment, the area will be entirely relieved of these requirements to the extent the maintenance plan for the area does not rely on them.

Therefore, we believe that, for the reasons set forth here and established in our prior ''clean data'' memoranda and rulemakings, a PM_{10} nonattainment area that has ''clean data,'' should be relieved of the part D, subpart 4 obligations to provide an attainment demonstration pursuant to section 189(a)(1)(B), the RACM provisions of section 189(a)(1)(C), and the RFP provisions established by section 189(c)(1) of the Act, as well as the aforementioned attainment demonstration, RACM, RFP and contingency measure provisions of part D, subpart 1 contained in section 172 of the Act.[6]

Should EPA at some future time determine that an area that had clean data, but which has not yet been redesignated as attainment for a NAAQS, has violated the relevant standard, the area would again be required to submit the pertinent requirements under the SIP for the area. Attainment determinations under the policy do not shield an area from other required actions, such as provisions to address pollution transport.

As set forth above, EPA finds that because the Rillito area has continued to attain the NAAQS, the requirement of an attainment demonstration, reasonable further progress, reasonably available control measures and contingency measures no longer applies for so long as the area continues to monitor attainment of the PM_{10} NAAQS. If measurements of ambient PM_{10} concentration in the Rillito area reveal a violation of the PM_{10} NAAQS, then the State of Arizona would again be required to submit the pertinent CAA requirements for this nonattainment area.[7]

IV. EPA's Final Action

Based on quality-assured data meeting the requirements of 40 CFR part 50, appendix K, we find that the Rillito, Arizona nonattainment area attained the PM_{10} NAAQS by the applicable attainment date (1994) and is currently attaining the standard. This action is not a redesignation to attainment under CAA section 107(d)(3) because we have not yet approved a maintenance plan 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 will remain moderate nonattainment for this area until such time as Arizona meets the CAA requirements for redesignation of the Rillito area to attainment. See footnote 7.

EPA also finds that, because the Rillito area has continued to attain the NAAQS, the following CAA requirements no longer apply: The part D, subpart 4 obligations to provide an attainment demonstration pursuant to section 189(a)(1)(B), the RACM provisions of 189(a)(1)(C), the RFP provisions established by section 189(c)(1), and the attainment demonstration, RACM, RFP and contingency measure provisions of part D, subpart 1 contained in section 172 of the Act.

Lastly, under CAA section 110(k)(6), we are correcting the entry for the Rillito moderate PM_{10} nonattainment area in the ''Arizona—PM–10'' table in 40 CFR 81.303 so that it is identified as a subarea within Pima County instead of Santa Cruz County.

We are publishing this rule without prior proposal because the Agency views this as a noncontroversial action and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal should adverse comments be filed. This action will be effective October 10, 2006, without further notice unless the EPA receives relevant adverse comments by September 7, 2006.

If we receive such comments, then we will publish a document withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. We will not institute a second comment period. Parties interested in commenting should do so at this time. If no such comments are received, the public is advised that this rule will be effective on October 10,

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

[6] In prior rulemakings involving the Clean Data Policy and PM_{10}, EPA has applied criteria in addition to that of attainment of the standard. See, *e.g.*, 67 FR 43020 (June 26, 2002). EPA does not believe that those additional criteria are required by statute or are necessary for application of the policy for PM_{10} areas, and does not employ them in applying the policy to ozone and $PM_{2.5}$ areas. EPA intends to make its application of the policy consistent for ozone, PM_{10}, and $PM_{2.5}$, and does not intend to require an area to meet additional criteria for PM_{10}.

[7] Note, however, that on January 17, 2006, EPA published proposed revisions to the NAAQS for particulate matter. See *http://www.epa.gov/fedrgstr/EPA-AIR/2006/January/Day-17/*. The proposed revisions address two categories of particulate matter: fine particles which are particles 2.5 micrometers in diameter and smaller; and ''inhalable coarse'' particles which are particles between 2.5 and 10 micrometers ($PM_{10-2.5}$). Upon finalization of a primary 24-hour standard for $PM_{10-2.5}$, EPA proposes to revoke the current 24-hour PM_{10} standard in all areas of the country except in areas where there is at least one monitor located in an urbanized area (as defined by the U.S. Bureau of the Census) with a minimum population of 100,000 that violates the current 24-hour PM_{10} standard based on the most recent three years of data. In addition, EPA proposes to revoke the current annual PM_{10} standard upon finalization of a primary 24-hour standard for $PM_{10-2.5}$.

2006 and no further action will be taken on the proposed rule.

V. Statutory and Executive Order Reviews

Under Executive Order 12866 (*58 FR 51735,* October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (*66 FR 28355,* May 22, 2001). This action merely makes a determination based on air quality data and does not impose any additional requirements. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule does not impose any additional enforceable duty, it 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).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (*65 FR 97249,* November 9, 2000). This action also does not have Federalism implications because it does 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 Executive Order 13132 (*64 FR 43255,* August 10, 1999). This action merely makes a determination based on air quality data and does not alter the relationship or the distribution of power and responsibilities established in the CAA. This rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (*62 FR 19885,* April 23, 1997), because it is not economically significant.

The requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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. 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 October 10, 2006. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule 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 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated: July 25, 2006.

Wayne Nastri,

Regional Administrator, Region 9.

■ Part 81, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 81—[AMENDED]

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

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

Subpart C—[Amended]

■ 2. In § 81.303, the table entitled ''Arizona—PM–10'' is amended by revising the entries for Santa Cruz County and Pima County to read as follows:

§ 81.303 Arizona.

* * * * *

ARIZONA.—PM–10

Designated area	Designation		Classification	
	Date	Type	Date	Type
* * * *	*	*		*
Santa Cruz County:				
Nogales planning area	11/15/90	Nonattainment	11/15/90	Moderate.
The portions of the following Townships which are within the State of Arizona and lie east of 111 degrees longitude: T23S, R13E, T23S, R14E, T24S, R13E, T24S, R14E				
Pima County:				
Rillito planning area	11/15/90	Nonattainment	11/15/90	Moderate.
Townships: T11S, R9E, T11S, R10E, T11S, R11E, T11S, R12E, T12S, R8E, T12S, R9E, T12S, R10E, T12S, R11E, T12S, R12E				
Ajo planning area	11/15/90	Nonattainment	11/15/90	Moderate.
Township T12S, R6W, and the following sections of Township T12S, R5W:				
a. Sections 6–8				
b. Sections 17–20, and				
c. Sections 29–32				
* * * *	*	*		*

* * * * *

[FR Doc. E6–12756 Filed 8–7–06; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF DEFENSE

48 CFR Parts 204 and 253

[DFARS Case 2005–D004]

Defense Acquisition Regulations System; Defense Federal Acquisition Regulation Supplement; Contract Reporting

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD has issued a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to update text addressing DoD requirements for reporting of contracting actions. This rule is a result of a transformation initiative undertaken by DoD to dramatically change the purpose and content of the DFARS.

DATES: *Effective Date:* August 8, 2006.

FOR FURTHER INFORMATION CONTACT: Mr. Bill Sain, Defense Acquisition Regulations System, OUSD (AT&L) DPAP (DARS), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062. Telephone (703) 602–0293; facsimile (703) 602–0350. Please cite DFARS Case 2005–D004.

SUPPLEMENTARY INFORMATION:

A. Background

DFARS Transformation is a major DoD initiative to dramatically change the purpose and content of the DFARS. The objective is to improve the efficiency and effectiveness of the acquisition process, while allowing the acquisition workforce the flexibility to innovate. The transformed DFARS will contain only requirements of law, DoD-wide policies, delegations of FAR authorities, deviations from FAR requirements, and policies/procedures that have a significant effect beyond the internal operating procedures of DoD or a significant cost or administrative impact on contractors or offerors. Additional information on the DFARS Transformation initiative is available at *http://www.acq.osd.mil/dpap/dars/dfars/transformation/index.htm.*

This final rule is a result of the DFARS Transformation initiative. The rule removes DFARS text addressing internal DoD requirements for reporting of contracting actions. These requirements have been relocated to the DFARS companion resource, Procedures, Guidance, and Information (PGI), available at *http://www.acq.osd.mil/dpap/dars/pgi.*

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

B. Regulatory Flexibility Act

This rule will not have a significant cost or administrative impact on contractors or offerors, or a significant effect beyond the internal operating procedures of DoD. Therefore, publication for public comment is not required. However, DoD will consider comments from small entities concerning the affected DFARS subparts in accordance with 5 U.S.C. 610. Such comments should cite DFARS Case 2005–D004.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply, because the rule does not impose any information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 204 and 253

Government procurement.

Michele P. Peterson,

Editor, Defense Acquisition Regulations System.

■ Therefore, 48 CFR parts 204 and 253 are amended as follows:

■ 1. The authority citation for 48 CFR parts 204 and 253 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR chapter 1.

PART 204—ADMINISTRATIVE MATTERS

■ 2. Subpart 204.6 is revised to read as follows:

Subpart 204.6—Contract Reporting

204.670 Contract action reporting requirements.

Departments and agencies shall report contracting actions in accordance with the requirements at PGI 204.670.

PART 253—FORMS

■ 3. Section 253.204–70 is revised to read as follows:

253.204–70 DD Form 350, Individual Contracting Action Report.

Follow the instructions at PGI 253.204–70 for completion of DD Form 350.

253.204–71 [Removed]

■ 4. Section 253.204–71 is removed.

[FR Doc. E6–12783 Filed 8–7–06; 8:45 am]

BILLING CODE 5001–08–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Part 219

[DFARS Case 2003–D060]

Defense Federal Acquisition Regulation Supplement; Threshold for Small Business Specialist Review

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD has issued a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to revise text pertaining to DoD implementation of small business programs. This rule is a result of a transformation initiative undertaken by DoD to dramatically change the purpose and content of the DFARS.

DATES: *Effective Date:* August 8, 2006.

FOR FURTHER INFORMATION CONTACT: Ms. Deborah Tronic, Defense Acquisition Regulations System, OUSD (AT&L) DPAP (DARS), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062. Telephone (703) 602–0289; facsimile (703) 602–0350. Please cite DFARS Case 2003–D060.

SUPPLEMENTARY INFORMATION:

A. Background

DFARS Transformation is a major DoD initiative to dramatically change the purpose and content of the DFARS. The objective is to improve the efficiency and effectiveness of the acquisition process, while allowing the acquisition workforce the flexibility to innovate. The transformed DFARS will contain only requirements of law, DoD-wide policies, delegations of FAR authorities, deviations from FAR requirements, and policies/procedures that have a significant effect beyond the internal operating procedures of DoD or a significant cost or administrative impact on contractors or offerors. Additional information on the DFARS Transformation initiative is available at *http://www.acq.osd.mil/dpap/dars/dfars/transformation/index.htm.*

This final rule is a result of the DFARS Transformation initiative. The rule—