

Review of the 2008–2010 ozone monitoring data in the nonattainment area shows that all sites were attaining the 1997 8-hour ozone NAAQS during this period. Therefore, based on the most recent three years of complete, quality assured ozone monitoring data, EPA is proposing to determine that the 1997 8-hour ozone standard has been attained in the St. Louis (MO-IL) metropolitan ozone nonattainment area.

### III. What is the effect of this action?

EPA is proposing to determine that the St. Louis metropolitan 8-hour ozone nonattainment area consisting of both the Missouri and Illinois portions of the area has attained the 1997 8-hour ozone standard. As provided in 40 CFR 51.918, if EPA finalizes this determination, certain attainment demonstration requirements and associated reasonably available control measures, reasonable further progress plans, contingency measures, and other planning SIP requirements related to attainment of the 8-hour ozone NAAQS shall be suspended as to the St. Louis nonattainment area. Under 40 CFR 51.918, a final determination that the area has met the 1997 8-hour ozone standard suspends the State's obligation to submit requirements related to attainment, for so long as the area continues to attain the standard. This action does not constitute a redesignation to attainment under CAA section 107(d)(3), because Missouri and Illinois do not have approved maintenance plans as required under section 175A of the CAA, nor has EPA made a determination that the area has met the other requirements for redesignation. The ozone classification and designation status of the area remains moderate nonattainment for the 1997 8-hour ozone NAAQS until such time as a redesignation request and maintenance plan are submitted to EPA and EPA determines that it meets the CAA requirements for redesignation to attainment.

If EPA subsequently determines, after notice-and-comment rulemaking in the **Federal Register**, that the area has violated the 1997 8-hour ozone standard, the basis for the suspension of these requirements would no longer exist, and the area would thereafter have to address the pertinent requirements.

### IV. EPA's proposed action?

EPA is proposing to determine that the St. Louis (MO-IL) metropolitan 1997 8-hour ozone nonattainment area has attained the 1997 8-hour ozone standard based on three years of complete, quality assured ambient air quality monitoring data for Missouri and

Illinois for the 2008–2010 ozone seasons. As provided in 40 CFR 51.918, if EPA finalizes this determination, the requirements for Missouri and Illinois to submit an attainment demonstration and associated reasonably available control measures, a reasonable further progress plan, and contingency measures under section 172(c)(9), and any other planning SIP related to attainment of the 1997 8-hour ozone NAAQS for the St. Louis Metropolitan area would be suspended. This suspension of requirements would be effective as long as the area continues to attain the 1997 8-hour ozone standard. This action addresses only the 1997 8-hour ozone standard of 0.08 ppm, and does not address any subsequent revisions to the standard.

### V. Statutory and Executive Order Reviews

This action proposes to make a determination based on air quality data, and would, if finalized, result in the suspension of certain Federal Requirements. Accordingly, this proposed action does not impose additional requirements beyond those imposed by State law. Therefore, this proposed action:

- Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and

- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed 8-hour ozone clean NAAQS data determination for the St. Louis (MO-IL) metropolitan area does not have Tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on Tribal governments or preempt Tribal law.

### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: February 10, 2011.

**Karl Brooks,**  
*Regional Administrator, Region 7.*

Dated: February 16, 2011.

**Bharat Mathur,**  
*Acting Regional Administrator, Region 5.*  
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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA–R09–OAR–2010–0995; FRL–9271–3]

### Approval and Promulgation of Implementation Plans; State of Nevada; PM–10; Determinations Regarding Attainment for the Truckee Meadows Nonattainment Area and Applicability of Certain Clean Air Act Requirements

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to make two separate and independent determinations regarding attainment for the Truckee Meadows PM–10 nonattainment area in Washoe County, Nevada (Truckee Meadows area). First, EPA is proposing to determine that, based on complete and quality-assured air monitoring data for 1999–2001, the Truckee Meadows area did not attain the 24-hour National Ambient Air Quality Standard (“NAAQS”) for

particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers ("PM-10") by the applicable attainment date of December 31, 2001. Second, EPA is proposing to determine that the Truckee Meadows area is currently attaining the PM-10 NAAQS, based upon complete, quality-assured PM-10 air quality monitoring data during the years 2007-2009. Preliminary data through June 2010 contained in EPA's Air Quality System ("AQS") show that no exceedances of the 24-hour NAAQS have been recorded in the Truckee Meadows area. Because the Truckee Meadows area is currently attaining the PM-10 NAAQS, EPA is proposing to determine that the obligation to make submissions to meet certain Clean Air Act ("CAA" or "the Act") requirements related to attainment are not applicable to as long as the area continues to attain the PM-10 NAAQS.

**DATES:** Written comments must be received on or before March 30, 2011.

**ADDRESSES:** Submit your comments, identified by docket number EPA-R09-OAR-2010-0995, by one of the following methods:

1. *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.
2. *E-mail:* Karina O'Connor at [occonnor.karina@epa.gov](mailto:occonnor.karina@epa.gov).
3. *Fax:* Karina O'Connor, Planning Office (AIR-2), at fax number (415) 947-3579.
4. *Mail or deliver:* Karina O'Connor, Air Planning Office, (AIR-2), U.S. EPA Region IX, 75 Hawthorne Street, San Francisco, California 94105-3901. Hand or courier deliveries are accepted only between the hours of 8 a.m. and 4 p.m. weekdays except for legal holidays. Special arrangements should be made for deliveries of boxed information.

**Instructions:** All comments 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.

**Docket:** EPA has established a docket for this action under EPA-R09-OAR-2010-0995. Generally, documents in the docket for this action are available electronically at <http://www.regulations.gov> or in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed at <http://www.regulations.gov>, some information may be publicly available only at the hard copy location (e.g., copyrighted material, large maps, multi-volume reports) and some may not be available in either location (e.g., confidential business information (CBI)). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

**FOR FURTHER INFORMATION CONTACT:** Karina O'Connor, Planning Office (AIR-2), U.S. EPA Region IX, 75 Hawthorne Street, San Francisco, California 94105-3901, telephone (775) 434-8176; fax (415) 947-3579; e-mail address [occonnor.karina@epa.gov](mailto:occonnor.karina@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document, the terms "we," "us," and "our" refer to EPA. This supplementary information is organized as follows:

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## I. Background

### A. The NAAQS for PM-10

Particulate matter with an aerodynamic diameter of less than or equal to 10 micrometers ("PM-10") is the subject of this proposed action. The NAAQS are limits for certain ambient air pollutants set by EPA to protect public health and welfare. PM-10 is among the ambient air pollutants for which EPA has established a health-based standard.

On July 1, 1987 (52 FR 24634), EPA revised the particulate matter ("PM") NAAQS to replace Total Suspended Particulate ("TSP") with PM-10 as the PM indicator. The 24-hour primary PM-10 standard was set at 150 micrograms per cubic meter ( $\mu\text{g}/\text{m}^3$ ) with no more than one expected exceedance per year. The annual primary PM-10 standard was set at  $50 \mu\text{g}/\text{m}^3$  as an annual arithmetic mean. The secondary PM-10 standards were identical to the primary standards.<sup>1</sup>

On October 17, 2006, EPA revised the primary PM-10 standards by revoking the annual standard of  $50 \mu\text{g}/\text{m}^3$  but retained the 24-hour standard of  $150 \mu\text{g}/\text{m}^3$ . EPA also revoked the annual secondary PM-10 standard. The revised PM-10 NAAQS became effective on December 18, 2006. See 71 FR 61144 and 40 CFR 50.6. Thus, for PM-10, the level of both the primary and secondary 24-hour NAAQS<sup>2</sup> is  $150 \mu\text{g}/\text{m}^3$ . 40 CFR 50.6(a).

### B. Designation, Classification and Air Quality Planning for PM-10 in Truckee Meadows

The Truckee Meadows PM-10 nonattainment area<sup>3</sup> lies in the far southern part of Washoe County, which is located in the northwestern portion of Nevada and is bordered by the State of California to the west and the State of Oregon to the north. Within the State of Nevada, the counties of Humboldt, Pershing, Storey, Churchill, Lyon, and the city of Carson City border Washoe County to the east and south. Located at an average elevation of 4,500 feet above sea level, Truckee Meadows encompasses a land area of

<sup>1</sup> EPA sets two types of NAAQS: "primary" NAAQS requisite to protect public health with an adequate margin of safety, and "secondary" NAAQS requisite to protect public welfare, e.g., protection against visibility impairment and damage to animals, crops, vegetation, and buildings. See CAA 109(b).

<sup>2</sup> We generally refer in this action to the primary and secondary 24-hour PM-10 NAAQS together in the singular (i.e., as "standard").

<sup>3</sup> The Truckee Meadows PM-10 nonattainment area, also known as the "Reno planning area," is geographically identified in 40 CFR 81.329 as "hydrographic area 87."

approximately 200 square miles and is surrounded by mountain ranges, which can lead to persistent wintertime temperature inversions where a layer of cold air is trapped in the valley. Warmer air above the inversion acts as a lid, containing and concentrating air pollutants at ground level.

Much of Washoe County's urban population lives in the Truckee Meadows PM-10 nonattainment area. Anthropogenic activities, such as automobile use and residential wood combustion, are also concentrated here. In the last quarter of the twentieth century, Truckee Meadows experienced rapid growth in population, increasing from approximately 150,000 in 1980 to approximately 330,000 in 2009, an increase of 120 percent over that 29-year period. The two major cities in the area are Reno and Sparks.

EPA initially designated the Truckee Meadows area as nonattainment for the TSP NAAQS in 1978. *See* 43 FR 8962, 9012 (March 3, 1978). Following EPA's 1987 revisions to the PM NAAQS to replace TSP with PM-10 as the PM indicator, Truckee Meadows was designated and classified by operation of law under the CAA Amendments of 1990 as a moderate nonattainment area for the PM-10 NAAQS. *See* 56 FR 11101 (March 15, 1991); 56 FR 56694 (November 6, 1991). Effective February 7, 2001, EPA determined that the area had failed to attain both the annual and the 24-hour PM-10 NAAQS<sup>4</sup> by the CAA mandated attainment date for moderate nonattainment areas of December 31, 1994, and reclassified the area under CAA 188(b)(2) by operation of law as a serious nonattainment area for the PM-10 NAAQS. *See* 66 FR 1268 (January 8, 2001).

Air quality planning and monitoring in Truckee Meadows is the responsibility of the Washoe County District Board of Health ("District"), which administers air quality programs in Washoe County through the District Health Department's Air Quality Management Division ("WCAQMD").

### C. Attainment Determinations

A determination of whether an area's air quality meets the PM-10 NAAQS is

<sup>4</sup> Because the annual PM-10 NAAQS was revoked effective December 18, 2006 (71 FR 61144, October 17, 2006), we do not address the annual standard in this action.

generally based upon the most recent three years of complete, quality-assured data gathered at established National Air Monitoring Stations ("NAMS") or State and Local Air Monitoring Stations ("SLAMS") in the nonattainment area and entered into the EPA Air Quality System ("AQS") database. Data from air monitors operated by State/local agencies in compliance with EPA monitoring requirements must be submitted to the EPA AQS database. Heads of monitoring agencies annually certify that these data are accurate to the best of their knowledge. Accordingly, EPA relies primarily on data in its AQS database when determining the attainment status of areas. *See* 40 CFR 50.6; 40 CFR part 50, appendix J; 40 CFR part 53; 40 CFR part 58, appendices A, C, D and E. All data are reviewed to determine the area's air quality status in accordance with 40 CFR part 50, appendix K.

The 24-hour PM-10 standard is attained when the expected number of days per calendar year with a 24-hour concentration in excess of the standard (referred to herein as "exceedance"<sup>5</sup>), as determined in accordance with 40 CFR part 50, appendix K, is equal to or less than one.<sup>6</sup> *See* 40 CFR 50.6 and 40 CFR part 50, appendix K. Three consecutive years of complete air quality data are necessary to show attainment of the 24-hour standard 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, includes all four calendar quarters with each quarter containing data from at least 75 percent of the scheduled sampling days. *Id.*

<sup>5</sup> An exceedance is defined as a daily value that is above the level of the 24-hour standard (150 µg/m<sup>3</sup>) after rounding to the nearest 10 µg/m<sup>3</sup> (*i.e.*, values ending in 5 or greater are to be rounded up). Thus, a recorded value of 154 µg/m<sup>3</sup> would not be an exceedance since it would be rounded to 150 µg/m<sup>3</sup> whereas a recorded value of 155 µg/m<sup>3</sup> would be an exceedance since it would be rounded to 160 µg/m<sup>3</sup>. *See* 40 CFR part 50, appendix K, section 1.0.

<sup>6</sup> The comparison with the allowable expected exceedance rate of one per year is made in terms of a number rounded to the nearest tenth (fractional values equal to or greater than 0.05 are to be rounded up; *e.g.*, an exceedance rate of 1.05 would be rounded to 1.1, which is the lowest rate for nonattainment). *See* 40 CFR part 50, appendix K, section 2.1(b).

## II. Proposed Determination of Failure To Attain the Standard by the Applicable Attainment Date

Sections 179(c)(1) and 188(b)(2) of the Act require for any PM-10 nonattainment area that EPA determine, within 6 months following the applicable attainment date, whether the area attained the standard by that date. Under section 188(c)(2) of the Act, the latest applicable attainment date for a serious PM-10 nonattainment area that was initially designated as nonattainment by operation of law under the CAA Amendments of 1990, such as the Truckee Meadows area, was December 31, 2001.

To determine whether the Truckee Meadows area attained the PM-10 standard by the applicable attainment date, we reviewed AQS monitoring data from the 1999-2001 period. The AQS database contains three consecutive years of complete, quality-assured and certified PM-10 data for the 1999-2001 period from the four monitors then operating in Truckee Meadows.<sup>7</sup> We have reviewed the monitoring data for this period and found that the Truckee Meadows area experienced two exceedances of the PM-10 standard in 1999 which resulted in an average expected exceedance rate of more than one during the 1999-2001 period, thereby violating the PM-10 standard during that period.<sup>8</sup>

Table 1 provides the highest measured PM-10 concentrations and the number of expected exceedances in Truckee Meadows during the 1999-2001 period.

<sup>7</sup> The four SLAMS operating in Truckee Meadows during the 1999-2001 period were the "Reno3," "South Reno," "Galletti," and "Sparks" monitoring sites. As noted in the discussion in section III, below, two additional monitoring sites in Truckee Meadows, "Toll" and "Plumb-Kit," became operational as SLAMS in 2002 and 2006, respectively. *See* 2009 Monitoring Network Plan at 21, 36, and U.S. EPA Monitor Description Report, Monitor ID: 32-031-0025-81102-1, dated Nov. 1, 2010.

<sup>8</sup> Because the PM-10 sampling schedule in the Truckee Meadows area was once every six days during the 1999-2001 period, each of the exceedances measured in 1999 resulted in at least six expected exceedances for that calendar year. *See* U.S. EPA AQS Database and 40 CFR part 50, appendix K, section 3.0. Thus, the expected number of days per year with levels exceeding the standard for the 1999-2001 period (averaged over that three-year period) was more than one, which is a violation of the PM-10 NAAQS. *See* 40 CFR 50.6.

TABLE 1—MONITORED PM-10 CONCENTRATIONS AND EXPECTED EXCEEDANCES [1999–2001]

Monitoring site name and AQS number	Maximum 24-hour (µg/m <sup>3</sup> )			Expected exceedances (calendar year)			Expected exceedances (3-year average)
	1999	2000	2001	1999	2000	2001	
Reno3 (32–031–0016) .....	197	109	92	6	0	0	2.0
South Reno (32–031–0020) .....	90	84	112	0	0	0	0
Galletti (32–031–0022) .....	215	100	113	6.4	0	0	2.1
Sparks (32–031–1005) .....	114	68	78	0	0	0	0

Source: U.S. EPA AQS database.

Thus, based on complete, quality-assured and certified monitoring data from the 1999–2001 period, we propose to determine under sections 179(c)(1) and 188(b)(2) of the Act that the Truckee Meadows serious PM-10 nonattainment area failed to attain the PM-10 standard by the applicable attainment date of December 31, 2001.

**III. Proposed Determination of Attainment Based on Current Air Monitoring Data**

The WCAQMD currently operates six SLAMS in the Truckee Meadows PM-10 nonattainment area. See Washoe County Air Quality Management Division, “2009 Ambient Air Monitoring Network Plan, Submitted to EPA Region IX July 1, 2010” (“2009 Monitoring Network Plan”). The six PM-10 monitors in Truckee Meadows are located as follows. In the City of Reno, the “Reno3” and “Galletti” monitoring sites are located at the corners of paved parking lots, in downtown Reno and just south of Interstate 80, respectively; the “Plumb-Kit” site is in a graveled area close to residences, about half a mile west of Interstate 580 and the Reno-Tahoe International Airport; and the

“Toll” site is located along State Route 341, at the corner of the Washoe County School District parking lot. In South Reno, the “South Reno” monitoring site is located in an unpaved, vegetated area at the northeast corner of the Nevada Energy campus. Finally, in the City of Sparks, the “Sparks” monitoring site is located along a paved parking lot about half a mile north of Interstate 80. See generally 2009 Monitoring Network Plan. All of these PM-10 monitor sites are operated on a one-in-six day schedule, except that at the Reno3 site the sampling frequency was recently increased to one-in-three days. *Id.* at 6.

PM-10 data from these six monitors are quality-assured and reported by the WCAQMD to the EPA AQS database. *Id.* at 3. EPA has approved the WCAQMD’s monitoring network as satisfying the network design and data adequacy requirements of 40 CFR part 58. See letter dated September 29, 2009, from Joseph Lapka, Acting Manager, Air Quality Analysis Office, EPA Region 9, to Andrew Goodrich, Director, Washoe County District Health Department, Washoe County AQMD. The WCAQMD annually certifies that the data it

submits to AQS are complete and quality-assured. See, e.g., letter dated April 23, 2010, from Craig Petersen, Senior Air Quality Specialist, WCAQMD, to David Lutz, Data Certification Contact, EPA, “Re: CY2009 Ambient Air Monitoring Data Certification.”

*A. Proposed Determination of Attainment*

The AQS database contains three consecutive years of complete, quality-assured and certified PM-10 data for the 2007–2009 period, the most recent three-year period of such data for Truckee Meadows. We have reviewed the monitoring data for this period and found that no exceedances of the PM-10 NAAQS were recorded in the Truckee Meadows area during this time. The expected exceedance rate for this period was less than one, which means that the area attained the 24-hour PM-10 standard during this time.

Table 2 provides the highest measured PM-10 concentrations and the number of expected exceedances in Truckee Meadows during the 2007–2009 period.

TABLE 2—MONITORED PM-10 CONCENTRATIONS AND EXPECTED EXCEEDANCES [2007–2009]

Monitoring site name and AQS number	Maximum 24-hour (µg/m <sup>3</sup> )			Expected exceedances (calendar year)			Expected exceedances (3-year average)
	2007	2008	2009	2007	2008	2009	
Reno3 (32–031–0016) .....	69	92	78	0	0	0	0
South Reno (32–031–0020) .....	75	111	59	0	0	0	0
Galletti (32–031–0022) .....	130	87	91	0	0	0	0
Toll (32–031–0025) .....	43	64	46	0	0	0	0
Plumb-Kit (32–031–0030) .....	108	86	93	0	0	0	0
Sparks (32–031–1005) .....	76	101	67	0	0	0	0

Source: U.S. EPA AQS database.

Thus, based on complete, quality-assured and certified monitoring data from the 2007–2009 period, we propose to find that the Truckee Meadows PM-10 nonattainment area is currently

attaining the PM-10 NAAQS. Preliminary data available to date for calendar year 2010 also indicate that no monitor in the area has measured an

exceedance of the PM-10 standard during 2010. See Table 3.

**TABLE 3—MONITORED PM-10 CONCENTRATIONS**  
[Preliminary data through June 2010]

Monitoring site name and AQS number	Maximum 24-hour (µg/m³)
Reno3 (32-031-0016) .....	142
South Reno (32-031-0020) .....	52
Galletti (32-031-0022) .....	87
Toll (32-031-0025) .....	33
Plumb-Kit (32-031-0030) .....	77

**TABLE 3—MONITORED PM-10 CONCENTRATIONS—Continued**  
[Preliminary data through June 2010]

Monitoring site name and AQS number	Maximum 24-hour (µg/m³)
Sparks (32-031-1005) .....	48

*Source:* U.S. EPA AQS database. These data have not yet been certified as meeting EPA's quality-assurance or data completeness requirements.

Moreover, historical data show consistent attainment in the Truckee

Meadows area for each three-year period since 2000–2002. According to these data, Truckee Meadows experienced only one measured exceedance (not constituting a violation) of the PM-10 standard during the ten years since 2000, in 2005. No violations have occurred during this time period. EPA's review of quality-assured AQS data since 2000 thus confirms that the area attained the 24-hour PM-10 NAAQS in 2002 and has continued in attainment since then.<sup>9</sup> See Table 4, below and Tables 2 and 3, above.

**TABLE 4—MONITORED PM-10 CONCENTRATIONS**  
[2000–2006]

Monitoring site name and AQS number	Maximum 24-hour (µg/m³)						
	2000	2001	2002	2003	2004	2005	2006
Reno3 (32-031-0016) .....	109	92	85	69	83	79	91
South Reno (32-031-0020) .....	84	112	45	61	54	71	52
Galletti (32-031-0022) .....	100	113	97	108	126	172	118
Toll (32-031-0025) .....	*	*	57	37	64	75	47
Plumb-Kit (32-031-0030) .....	*	*	*	*	*	*	91
Sparks (32-031-1005) .....	68	78	76	85	90	73	76

*Source:* U.S. EPA AQS database.  
\* Data not available in AQS because SLAMS not yet established.

Thus, the area's monitoring history over the past ten years shows that the Truckee Meadows area has consistently met the 24-hour PM-10 NAAQS, and the most recent three years of complete, quality-assured data show that the area continues to attain the PM-10 standard.

*B. Clean Data Policy: Applicability of Clean Air Act Planning Requirements*

The air quality planning requirements for serious PM-10 nonattainment areas, such as Truckee Meadows, are set out in part D, subparts 1 and 4 of title I of the Act. EPA has issued guidance in a General Preamble<sup>10</sup> describing how we will review State implementation plans (SIPs) and SIP revisions submitted under title I of the Act, including those containing serious PM-10 nonattainment area SIP provisions.

The subpart 1 requirements include, among other things, provisions for reasonably available control measures ("RACM"), reasonable further progress ("RFP"), emissions inventories, a permit program for construction and operation of new or modified major stationary sources in the nonattainment area ("NSR"), contingency measures,

conformity, and additional SIP revisions providing for attainment where EPA determines that the area has failed to attain the standard by the applicable attainment date.

Subpart 4 requirements in CAA section 189 apply specifically to PM-10 nonattainment areas. The requirements for serious PM-10 nonattainment areas include: (1) An NSR program defining "major source" or "major stationary source" to include any source that emits or has the potential to emit at least 70 tons per year of PM-10; (2) an attainment demonstration; (3) provisions for RACM; (4) provisions for Best Available Control Measures ("BACM"); (5) quantitative milestones demonstrating RFP toward attainment by the applicable attainment date; (6) in the case of a serious nonattainment area that fails to attain by the applicable attainment date, plan revisions providing for attainment and for annual reductions in PM-10 or PM-10 precursor emissions within the area of not less than five percent of the amount of such emissions as reported in the most recent inventory ("189(d) plans"); and (7) provisions to ensure that the

control requirements applicable to major stationary sources of PM-10 also apply to major stationary sources of PM-10 precursors except where the Administrator has determined that such sources do not contribute significantly to PM-10 levels which exceed the NAAQS in the area.

For nonattainment areas where EPA determines that monitored data show that the NAAQS have already been achieved, EPA's interpretation, upheld by the Courts, is that the obligation to submit certain requirements of part D, subparts 1, 2 and 4 of the Act are suspended for so long as the area continues to attain. These include requirements for attainment demonstrations, RFP, RACM, and contingency measures, because these provisions have the purpose of helping achieve attainment of the NAAQS. Certain other obligations for PM-10 nonattainment areas, however, are not suspended, such as the NSR and BACM requirements.

This interpretation of the CAA is known as the Clean Data Policy. It is the subject of several EPA memoranda and regulations, and numerous rulemakings

<sup>9</sup> Although the regular PM-10 sampling schedule at the Galletti monitor is once every six days, the single exceedance measured in 2005 did not constitute a violation because the WCAQMD subsequently initiated every-day sampling at that monitor consistent with section 3.1 of 40 CFR part 50, Appendix K. See U.S. EPA AQS Database; see

also "Redesignation Request and Maintenance Plan for the Truckee Meadows 24-Hour PM10 Non-Attainment Area," May 28, 2009, at 4, 5. Thus, the 2005 exceedance resulted in an average expected number of exceedances of 0.3 for each three-year period that includes 2005. For all other three-year

periods between 2000 and 2006, the expected number of exceedances was 0.

<sup>10</sup> "General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990," 57 FR 13498 (April 16, 1992), as supplemented at 57 FR 18070 (April 28, 1992).

that have been published in the **Federal Register** over more than fifteen years. EPA finalized the statutory interpretation set forth in the policy in its final 8-hour ozone implementation 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 71612, 71645–46 (November 29, 2005). The DC Circuit upheld this Clean Data regulation as a valid interpretation of the CAA. *NRDC v. EPA*, 571 F. 3d 1245 (DC Cir. 2009). EPA also finalized its interpretation in an implementation rule for the NAAQS for particulate matter of 2.5 microns or less (PM<sub>2.5</sub>). 40 CFR 51.1004(c). Thus, EPA has codified the policy when it established final rules governing implementation of new or revised NAAQS for the pollutants. 70 FR 71612, 71644–46 (November 29, 2005); 72 FR 20585, 20665 (April 25, 2007) (PM<sub>2.5</sub> Implementation Rule). Otherwise, EPA applies the policy in individual rulemakings related to specific nonattainment areas. See, e.g., 75 FR 27944 (May 19, 2010) (determination of attainment of the PM–10 standard in Coso Junction, California); 75 FR 6571 (February 10, 2010) (determination of attainment of the 1-hour ozone standard in Baton Rouge, Louisiana).

In its many applications of the Clean Data Policy interpretation to PM–10, EPA has explained 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,” our PM<sub>2.5</sub> Implementation Rule, and our December 14, 2004 memorandum from Stephen D. Page entitled “Clean Data Policy for the Fine Particle National Ambient Air Quality Standards,” are equally pertinent to the interpretation of provisions of subparts 1 and 4 applicable to PM–10. See, e.g., 71 FR 6352 (February 8, 2006) (Ajo, Arizona area); 71 FR 13021 (March 14, 2006) (Yuma, Arizona area); 71 FR 40023 (July 14, 2006) (Weirton, West Virginia area); 71 FR 44920 (August 8, 2006) (Rillito, Arizona area); 71 FR 63642 (October 30, 2006) (San Joaquin Valley, California area); 72 FR 14422 (March 28, 2007) (Miami, Arizona area); and 75 FR 27944 (May 19, 2010) (Coso Junction, California area). EPA’s interpretation that the obligation to submit an attainment demonstration, RACM, RFP contingency measures, and other

measures related to attainment under part D of title I of the CAA, pertains whether the standard is PM–10, ozone or PM–2.5.

In our proposed and final rulemakings determining that the San Joaquin Valley nonattainment area attained the PM–10 standard, EPA set forth at length our rationale for applying the Clean Data Policy to PM–10. The Ninth Circuit subsequently upheld this rulemaking, and specifically EPA’s Clean Data Policy in the context of the PM–10 standard. *Latino Issues Forum v. EPA*, Nos. 06–75831 and 08–71238 (9th Cir.), Memorandum Opinion, March 2, 2009. In rejecting petitioner’s challenge to the Clean Data Policy for PM–10, the Court stated:

As the EPA rationally explained, if an area is in compliance with PM–10 standards, then further progress for the purpose of ensuring attainment is not necessary.

EPA noted in its prior PM–10 rulemakings that the reasons for relieving an area that has attained the relevant standard of certain obligations under part D, subparts 1 and 2, apply equally to part D, subpart 4, which contains specific attainment demonstration and RFP provisions for PM–10 nonattainment areas. In EPA’s Phase 2 8-Hour Ozone Final Rule and ozone and PM–2.5 Clean Data memoranda, EPA established that 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). Every U.S. Circuit Court of Appeals that has considered the Clean Data Policy has upheld EPA rulemakings applying its interpretation, for both ozone and PM–10. *Sierra Club v. EPA*, 99 F.3d 1551 (10th Cir. 1996); *Sierra Club v. EPA*, 375 F. 3d 537 (7th Cir. 2004); *Our Children’s Earth Foundation v. EPA*, N. 04–73032 (9th Cir. June 28, 2005) (memorandum opinion), *Latino Issues Forum*, supra.

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’s prior determinations of attainment for PM–10, e.g., for the San Joaquin Valley and Coso Junction areas in California, make clear that the same reasoning applies to the PM–10 provision of part D, subpart 4. See 71 FR 40952 and 71 FR 63642 (proposed and final determination of attainment for San Joaquin Valley); 75 FR 13710 and 75 FR 27944 (proposed and final determination of attainment for Coso Junction).

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.

In the General Preamble, we noted with respect to section 189(c) that the purpose of the milestone requirement “is ‘to provide for emission reductions adequate to achieve the standards by the applicable attainment date’ (H.R. Rep.

No. 490 101st Cong., 2d Sess. 267 (1990)).” 57 FR 13539 (April 16, 1992). If an area has in fact attained the standard, the stated purpose of the RFP requirement will have already been fulfilled.<sup>11</sup> 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). In our prior applications of the Clean Data Policy to PM-10, we have extended that interpretation to the specific provisions of part D, subpart 4. *See, e.g.*, 71 FR 40952 and 71 FR 63642 (proposed and final determination of attainment for San Joaquin Valley); 75 FR 13710 and 75 FR 27944 (proposed and final determination of attainment for Coso Junction).

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.

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

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

<sup>11</sup> Thus, we believe that it is a distinction without a difference that section 189(c)(1) speaks of the RFP requirement as one to be achieved until an area is “redesignated attainment,” as opposed to section 172(c)(2), which is silent on the period to which the requirement pertains, or the ozone nonattainment area RFP requirements in sections 182(b)(1) or 182(c)(2), which refer to the RFP requirements as applying until the “attainment date,” since section 189(c)(1) defines RFP by reference to section 171(1) of the Act. Reference to section 171(1) clarifies that, as with the general RFP requirements in section 172(c)(2) and the ozone-specific requirements of section 182(b)(1) and 182(c)(2), the PM-specific requirements may only be required “for the purpose of ensuring attainment of the applicable national ambient air quality standard by the applicable date.” 42 U.S.C. 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.

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

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

1995 Seitz memorandum at 5.

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 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.<sup>12</sup> EPA is interpreting section 189(a)(1)(C) consistent with its interpretation of section 172(c)(1).<sup>13</sup>

Finally, in the case of a serious PM-10 nonattainment area that does not attain the PM-10 standard by the applicable attainment date, sections 189(d) and section 179(d) require the State to submit additional SIP revisions providing for attainment of the standard. Section 189(d), which applies to any serious PM-10 nonattainment area that fails to attain by the applicable attainment date, requires the State to submit “plan revisions which provide for attainment of the PM-10 air quality standard and, from the date of such submission until attainment, for an annual reduction in PM-10 or PM-10 precursor emissions within the area of not less than 5 percent” of inventoried PM-10 and PM-10 precursor emissions. Section 179(d), which applies to any nonattainment area for which EPA has made a determination under section 179(c) of failure to attain by the applicable attainment date, requires the State to submit plan revisions meeting

<sup>12</sup> 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 DC Circuit (*Sierra Club v. EPA*, 294 F.3d 155, 162–163 (DC Cir. 2002)).

<sup>13</sup> EPA does not, however, interpret the BACM requirement in section 189(b)(1)(B) of the CAA as being suspended upon a determination of attainment. We note that we have approved several PM-10 control measures into the Truckee Meadows portion of the Nevada SIP as satisfying BACM control requirements. *See* 71 FR 14386 (March 22, 2006), 72 FR 25969 (May 8, 2007), and 72 FR 33397 (June 18, 2007).

the requirements of CAA sections 110 and 172 and “such additional measures as the Administrator may reasonably prescribe” including measures that can be feasibly implemented in the area.

As discussed above in section II of this document, the Truckee Meadows is a serious nonattainment area that did not attain the PM-10 standard by the applicable attainment date of December 31, 2001. *See* CAA 188(c)(2).<sup>14</sup> However, as discussed in section III.A of this document, the area did attain the PM-10 standard beginning in 2002, and has continued in attainment during the decade that followed. As explained at length in the memoranda and rulemakings cited above, the obligations to submit SIPs for RFP, attainment demonstrations, and certain related SIP submissions are suspended once EPA determines an area has attained the standard, since their purpose, to achieve attainment, will already have been fulfilled. Section 189(d) requires submittal of plan revisions “which provide for attainment of the PM-10 air quality standard” and annual emission reductions of at least five percent “until attainment.” Similarly, section 179(d) requires submittal of plan revisions meeting the requirements of section 110 and section 172, which requires generally that submitted plan provisions “provide for attainment of the national primary ambient air quality standards.” Because these requirements apply to nonattainment areas that have failed to attain a standard by the applicable attainment date and are directed at achieving attainment, we believe that the obligations to submit plans under these requirements are suspended when EPA determines that the area has attained the standard, for as long as the area continues to attain. Thus, based on our proposed determination that the Truckee Meadows area is now attaining the PM-10 NAAQS in section III.A above, we propose to suspend the requirement for additional SIP submittals under sections 189(d) and 179(d).

We emphasize that the suspension of the obligation to submit SIP revisions concerning these RFP, attainment demonstration, RACM, and other related requirements exists only for as long as the Truckee Meadows area continues to monitor attainment of the standard. If EPA determines, after notice-and-

<sup>14</sup> Truckee Meadows experienced two exceedances of the PM-10 NAAQS in 1999 which resulted in an expected number of days per year with levels above 150 µg/m<sup>3</sup> for the 1999–2001 period (averaged over that three-year period) of more than one, thereby violating the PM-10 standard during that period. *See* U.S. EPA AQSD Database; 40 CFR 50.6.

comment rulemaking, that the area has monitored a violation of the NAAQS, the basis for the requirements being suspended would no longer exist. In that case, the area would again be subject to a requirement to submit the pertinent SIP revision or revisions and would need to address those requirements. Thus, a final determination that the area need not submit one of the pertinent SIP submittals amounts to no more than a suspension of the requirements for so long as the area continues to attain the standard. Only if and when EPA redesignates the area to attainment would the area be relieved of these submission obligations. Attainment determinations under the Clean Data policy do not shield an area from obligations unrelated to attainment in the area, such as provisions to address pollution transport.

As set forth above, based on our proposed determination that the Truckee Meadows area is currently attaining the PM-10 NAAQS (*see* section III.A above), we propose to find that the obligations to submit planning provisions to meet the requirements for an attainment demonstration, reasonable further progress plans, reasonably available control measures, contingency measures, and additional SIP revisions under sections 189(d) and 179(d) no longer apply for so long as the area continues to monitor attainment of the PM-10 NAAQS.<sup>15</sup> If in the future, EPA determines after notice-and-comment rulemaking that the area again violates the PM-10 NAAQS, the basis for the attainment demonstration, RFP, RACM, contingency measure, and additional section 189(d) and 179(d) plan requirements being suspended would no longer exist. In that event, we would notify the State that we have determined that the area is no longer attaining the PM-10 standard and provide notice to the public in the **Federal Register**.

#### IV. EPA's Proposed Actions

Pursuant to CAA sections 188(b)(2) and 179(c)(1) and based on complete, quality-assured data for the 1999–2001 period meeting the requirements of 40

<sup>15</sup> We note that our application of the Clean Data Policy to Truckee Meadows is consistent with actions we have taken for other PM-10 nonattainment areas that we also determined were attaining the standard. *See* 71 FR 6352 (February 8, 2006) (Ajo, Arizona area); 71 FR 13021 (March 14, 2006) (Yuma, Arizona area); 71 FR 40023 (July 14, 2006) (Weirton, West Virginia area); 71 FR 44920 (August 8, 2006) (Rillito, Arizona area); 71 FR 63642 (October 30, 2006) (San Joaquin Valley, California area); 72 FR 14422 (March 28, 2007) (Miami, Arizona area); and 75 FR 27944 (May 19, 2010) (Coso Junction, California).

CFR part 50, appendix K, we propose to determine that the Truckee Meadows nonattainment area failed to attain the 24-hour PM-10 NAAQS by the applicable attainment date of December 31, 2001. Failure by a “serious” nonattainment area such as Truckee Meadows to attain the PM-10 NAAQS by the applicable attainment date triggers a requirement for the State to submit additional plan revisions providing for attainment under CAA sections 189(d) and 179(d).

Separately and independently of the determination proposed above, we also propose to determine, based on the most recent three years of complete, quality-assured data meeting the requirements of 40 CFR part 50, appendix K, that the Truckee Meadows area is currently attaining the 24-hour PM-10 NAAQS. In conjunction with and based upon our proposed determination that Truckee Meadows is currently attaining the standard, EPA proposes to determine that the obligation to submit the following CAA requirements is not applicable for so long as the area continues to attain the PM-10 standard: The part D, subpart 4 obligations to provide an attainment demonstration pursuant to section 189(a)(1)(B), the RACM provisions of section 189(a)(1)(C), the RFP provisions of section 189(c), the requirement for 189(d) plans, the attainment demonstration, RACM, RFP and contingency measure provisions of part D, subpart 1 contained in section 172 of the Act, and the requirement for additional plan revisions in section 179(d) of the Act.

This proposed action, if finalized, would not constitute a redesignation to attainment under CAA section 107(d)(3) because we would not yet have approved a maintenance plan as required under 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 would remain serious nonattainment for this area until such time as EPA determines that Nevada meets the CAA requirements for redesignation of the Truckee Meadows area to attainment.

#### V. Statutory and Executive Order Reviews

This action proposes to make two separate determinations regarding attainment based on air quality, and would, if finalized, result in the suspension of certain Federal requirements, and/or would not impose additional requirements beyond those imposed by State law or by the Clean

Air Act. For that reason, this proposed action:

- Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address disproportionate human health or environmental effects with practical, appropriate, and legally permissible methods under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed rule does not have Tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP obligations discussed herein do not apply to Indian Tribes and thus will not impose substantial direct costs on Tribal governments or preempt Tribal law.

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

Dated: February 17, 2011.

**Jared Blumenfeld,**

*Regional Administrator, Region IX.*

[FR Doc. 2011–4376 Filed 2–25–11; 8:45 am]

**BILLING CODE 6560–50–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### 42 CFR Part 5

#### Negotiated Rulemaking Committee on Designation of Medically Underserved Populations and Health Professional Shortage Areas; Notice of Meeting

**AGENCY:** Health Resources and Services Administration, HHS.

**ACTION:** Negotiated Rulemaking Committee meeting.

**SUMMARY:** In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of the following meeting of the Negotiated Rulemaking Committee on Designation of Medically Underserved Populations and Health Professional Shortage Areas.

**DATES:** Meetings will be held on March 8, 2011, 9:30 a.m. to 6 p.m.; March 9, 2011, 9 a.m. to 6 p.m.; and March 10, 2011, 9 a.m. to 4 p.m.

**ADDRESSES:** Meetings will be held at the Radisson Hotel Reagan National Airport, 2020 Jefferson Davis Highway, Arlington, Virginia 22202, (703) 920–8600.

**FOR FURTHER INFORMATION CONTACT:** For more information, please contact Nicole Patterson, Office of Shortage Designation, Bureau of Health Professions, Health Resources and Services Administration, Room 9A–18, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443–9027, E-mail: [npatterson@hrsa.gov](mailto:npatterson@hrsa.gov) or visit <http://www.hrsa.gov/advisorycommittees/shortage/>.

**SUPPLEMENTARY INFORMATION:** *Status:* The meeting will be open to the public.

*Purpose:* The purpose of the Negotiated Rulemaking Committee on Designation of Medically Underserved Populations and Health Professional Shortage Areas (Committee) is to establish criteria and a comprehensive methodology for Designation of Medically Underserved Populations and Primary Care Health Professional Shortage Areas, using a Negotiated Rulemaking (NR) process. It is hoped that use of the NR process will yield consensus among technical experts and stakeholders on a new rule for designation of medically underserved populations and primary care health professions shortage areas, which would be published as an Interim Final Rule in accordance with Section 5602 the Affordable Care Act, Public Law 111–148.

*Agenda:* The meeting will be held on Tuesday, March 8; Wednesday, March

9; and Thursday, March 10. It will include a discussion of various components of a possible methodology for identifying areas of shortage and underservice, based on the recommendations of the Committee in the previous meeting. The Thursday meeting will also include development of the agenda for the next meeting. Members of the public will have the opportunity to provide comments during the meeting on Thursday afternoon, March 10.

Requests from the public to make oral comments or to provide written comments to the Committee should be sent to Nicole Patterson at the contact address above at least 10 days prior to the first day of the meeting, Wednesday, March 8. The meeting will be open to the public as indicated above, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the contact person listed above at least 10 days prior to the meeting.

The Committee is working to meet the requirement in the Affordable Care Act under tight timeframes. As work has progressed, it has been determined that more time will be needed to complete the assignment due to its complexity, resulting in the Committee’s decision to extend planned meetings. As a result, the logistical challenges encountered with extending planned meetings and scheduling additional meetings hindered an earlier publishing of the meeting notice.

Dated: February 23, 2011.

**Reva Harris,**

*Acting Director, Division of Policy and Information Coordination.*

[FR Doc. 2011–4388 Filed 2–25–11; 8:45 am]

**BILLING CODE 4165–15–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### 42 CFR Part 6

**RIN 0906–AA77**

#### Federal Tort Claims Act (FTCA) Medical Malpractice Program Regulations: Clarification of FTCA Coverage for Services Provided to Non-Health Center Patients

**AGENCY:** Health Resources and Services Administration, HHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Federally Supported Health Centers Assistance Act of 1992, as amended in 1995 (FSHCAA), provides for liability protection for