

Name of non-regulatory SIP revision	Applicable geographic area	State submittal date	EPA approval date	Additional explanation
2002 Base Year Emissions Inventory for the 1997 fine particulate matter (PM <sub>2.5</sub> ) standard.	West Virginia portion of the Steubenville-Weirton, OH-WV 1997 PM <sub>2.5</sub> nonattainment area.	6/24/09	4/16/13 [ <i>Insert page number where the document begins.</i> ]	52.2531(e).

■ 3. Section 52.2531 is amended by adding paragraph (e) to read as follows:

**§ 52.2531 Base year emissions inventory.**

(e) EPA approves as a revision to the West Virginia State Implementation Plan the 2002 base year emissions inventory for the West Virginia portion of the Steubenville-Weirton, OH-WV fine particulate matter (PM<sub>2.5</sub>) nonattainment area submitted by the West Virginia Department of Environmental Protection on June 24, 2009. The 2002 base year emissions inventory includes emissions estimates that cover the general source categories of point sources, non-road mobile sources, area sources, on-road mobile sources, and biogenic sources. The pollutants that comprise the inventory are nitrogen oxides (NO<sub>x</sub>), volatile organic compounds (VOCs), PM<sub>2.5</sub>, coarse particles (PM<sub>10</sub>), ammonia (NH<sub>3</sub>), and sulfur dioxide (SO<sub>2</sub>).

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 81**

[EPA-R09-OAR-2013-0104; FRL-9802-6]

**Designation of Areas for Air Quality Planning Purposes; State of Nevada; Total Suspended Particulate**

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action to delete certain area designations for total suspended particulate within the State of Nevada because the designations are no longer necessary. These designations relate to the attainment or unclassifiable areas for total suspended particulate in Clark County as well as the following nonattainment areas for total suspended particulate elsewhere within the State of Nevada: Carson Desert, Winnemucca Segment, Lower Reese Valley, Fernley Area, Mason Valley, and Clovers Area. EPA is taking this action under the Clean Air Act.

**DATES:** This rule is effective on June 17, 2013, unless EPA receives adverse comment by May 16, 2013. If adverse comments are 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 comments, identified by docket number EPA-R09-OAR-2013-0104, by one of the following methods:

1. *Federal eRulemaking Portal:* [www.regulations.gov](http://www.regulations.gov): Follow the on-line instructions for submitting comments.
2. *Email:* [occonnor.karina@epa.gov](mailto:occonnor.karina@epa.gov).
3. *Mail or deliver:* Karina O'Connor (AIR-2), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901.

*Instructions:* All comments will be included in the public docket without change and may be made available online at [www.regulations.gov](http://www.regulations.gov), including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through [www.regulations.gov](http://www.regulations.gov) or email. [www.regulations.gov](http://www.regulations.gov) is an "anonymous access" system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send email directly to EPA, your email address will be automatically captured and included as part of the public comment. 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.

*Docket:* The index to the docket for this action is available electronically at [www.regulations.gov](http://www.regulations.gov) and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy

location (e.g., copyrighted material), and some may not be publicly available in either location (e.g., 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 below.

**FOR FURTHER INFORMATION CONTACT:** Karina O'Connor, EPA Region IX, (775) 434-8176, [occonnor.karina@epa.gov](mailto:occonnor.karina@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document, "we," "us" and "our" refer to EPA.

**Table of Contents**

- I. Statutory and Regulatory Background
- II. EPA's Evaluation of the Effect of Deleting Certain TSP Area Designations
  - A. General Considerations
  - B. Deletion of TSP Attainment or Unclassifiable Area Designations in Clark County
  - C. Deletion of TSP Nonattainment Area Designations for Carson Desert, Winnemucca Segment, Lower Reese Valley, Fernley Area, Mason Valley, and Clovers Area
- III. Final Action and Request for Comment
- IV. Statutory and Executive Order Reviews

**I. Statutory and Regulatory Background**

On April 30, 1971 (36 FR 8186), pursuant to section 109 of the Clean Air Act ("Act" or CAA), as amended in 1970, EPA promulgated the original National Ambient Air Quality Standards (NAAQS) for the "criteria" pollutants, which included carbon monoxide, hydrocarbons, nitrogen dioxide, photochemical oxidant, sulfur dioxide, and particulate matter. The original NAAQS for particulate matter was defined in terms of a reference method that called for measuring particulate matter up to a nominal size of 25 to 45 micrometers or microns. This fraction of total ambient particulate matter is referred to as "total suspended particulate" or TSP. Within nine months thereafter, each State was required under section 110 of the 1970 amended Act to adopt and submit to EPA a plan, referred to as a State Implementation Plan (SIP), which provides for the implementation, maintenance, and enforcement of the NAAQS within each State. The State of Nevada submitted its SIP on January 28,

1972, and EPA approved Nevada's original SIP submittal later that year. See 37 FR 10842 (May 31, 1972).

Generally, SIPs were to provide for attainment of the NAAQS within three years after EPA approval of the plan. However, many areas of the country did not attain the NAAQS within the statutory period. In response, Congress amended the Act in 1977 to establish a new approach, based on area designations, for attaining the NAAQS. Under section 107(d) of the 1977 amended Act, States were to make recommendations for all areas within their borders as attainment, nonattainment, or unclassifiable for each of the NAAQS, including TSP, and EPA was to designate areas based on those recommendations, as modified if appropriate. For Nevada, the State recommended, and EPA approved, the use of hydrographic areas as the geographic basis for designating air quality planning areas. See 67 FR 12474 (March 19, 2002). For the TSP NAAQS, EPA designated the following areas in Nevada as "nonattainment": Las Vegas Valley [hydrographic area (HA) #212], Carson Desert (HA #101), Winnemucca Segment (HA #70), Lower Reese Valley (HA #59), Gabbs Valley (HA #122), Fernley Area (HA #76), Truckee Meadows (HA #87), Mason Valley (HA #108), and Clovers Area (HA #64). See 43 FR 8962, at 9012 (March 3, 1978). EPA designated all other areas in Nevada as attainment or unclassifiable for the TSP NAAQS. The area designations for air quality planning purposes in Nevada under the Clean Air Act are codified at 40 CFR 81.329.

Since the establishment of the original designations in 1978, EPA has taken three actions directly related to the Nevada TSP designations. In 1980, we redesignated Gabbs Valley (HA #122) from nonattainment to unclassifiable for the TSP NAAQS. See 45 FR 35327 (May 27, 1980). Later that same year, we approved a request from the State of Nevada to reduce the size of the Carson Desert TSP nonattainment area (HA #101) thereby creating a new unclassifiable TSP area known as Packard Valley (HA #101A). See 45 FR 46807 (July 11, 1980). In 2002, we deleted certain attainment and unclassifiable area designations for TSP. See 67 FR 68769 (November 13, 2002).

The Clean Air Act, as amended in 1977, required States to revise their SIPs by January 1979 for all designated nonattainment areas. The various local entities and the State of Nevada responded by developing and submitting attainment plans for the TSP nonattainment areas, and in 1981, EPA approved these plans on condition that

the State submit, within a prescribed period of time, revisions to correct certain deficiencies. See 46 FR 21758 (April 14, 1981). In 1982, we found that the State had submitted the required revisions correcting the identified deficiencies, and we revoked the conditions placed on our approval of the TSP plans. See 47 FR 15790 (April 13, 1982).

In 1987, EPA revised the NAAQS for particulate matter, eliminating TSP as the indicator for the NAAQS and replacing it with the "PM<sub>10</sub>" indicator. See 52 FR 24634 (July 1, 1987). PM<sub>10</sub> refers to particles with an aerodynamic diameter less than or equal to a nominal 10 microns. We indicated in the preamble to our regulations implementing the then-new PM<sub>10</sub> NAAQS that we would consider deletion of TSP area designations once EPA had reviewed and approved revised SIPs that include control strategies for the PM<sub>10</sub> NAAQS and once EPA had promulgated PM<sub>10</sub> increments for the prevention of significant deterioration (PSD) program. See 52 FR 24672, at 24682 (July 1, 1987).

Under our regulations for implementing the revised particulate matter NAAQS (i.e., the PM<sub>10</sub> NAAQS), EPA did not designate areas as nonattainment, attainment, or unclassifiable but categorized areas into three groups, referred to as Group I, Group II, or Group III. Group I areas were those that had a probability of not attaining the PM<sub>10</sub> NAAQS (based on existing TSP data) of at least 90%. Group I areas were required to submit SIP revisions that contain full PM<sub>10</sub> control strategies including a demonstration of attainment. See 52 FR 24672, at 24681 (July 1, 1987). We identified the Las Vegas (HA #212) and Reno (HA #87, known as "Truckee Meadows") planning areas as Group I areas. See 52 FR 29383 (August 7, 1987) and 55 FR 45799 (October 31, 1990).

Group II areas were those that had a probability of not attaining the PM<sub>10</sub> NAAQS of between 20% and 95% based on available TSP data. Group II areas were not required to submit SIP revisions that contained full PM<sub>10</sub> control strategies but were required to submit SIP revisions that included enforceable commitments to gather PM<sub>10</sub> ambient data, analyze and verify the ambient PM<sub>10</sub> data and report any PM<sub>10</sub> exceedances to EPA, and to revise the SIP if the exceedances constitute violations of the PM<sub>10</sub> NAAQS. We identified the Battle Mountain area as a Group II area. See 52 FR 29383 (August 7, 1987). The Battle Mountain area is located in north-central Nevada and includes Lower Reese River Valley and

Clovers Area as well as Boulder Flat to the east. In 1990, EPA approved the "committal SIP" for PM<sub>10</sub> for the Battle Mountain area. See 55 FR 18110 (May 1, 1990).

Group III areas were those that had a probability of not attaining the PM<sub>10</sub> NAAQS of less than 20%. For Group III areas, EPA presumed that the existing SIP that had been developed to address the TSP NAAQS would be adequate to demonstrate attainment and maintenance of the PM<sub>10</sub> NAAQS. All areas of Nevada, i.e., other than Las Vegas, Reno, and Battle Mountain, as discussed above, were categorized as Group III.

The Clean Air Act was significantly amended in 1990. Under the 1990 amended Act, Congress replaced the PM<sub>10</sub> regulatory approach established by EPA in 1987 with the area designation concept and designated former "Group I" areas and certain other areas as nonattainment areas for PM<sub>10</sub> by operation of law. See section 107(d)(4)(B) of the Act. All other areas were designated unclassifiable for PM<sub>10</sub> by operation of law. As former "Group I" areas, the Las Vegas and Reno planning areas were designated as nonattainment areas for PM<sub>10</sub> by operation of law. See 56 FR 11101 (March 15, 1991). The rest of the State of Nevada, including the former Group II area, Battle Mountain, was designated as unclassifiable for PM<sub>10</sub>. See 57 FR 56762 (November 30, 1992).

The 1990 Act amendments also provided for the continued transition from TSP to PM<sub>10</sub>. Specifically, section 107(d)(4)(B) states in relevant part: "Any designation for particulate matter (measured in terms of total suspended particulates) that the Administrator promulgated pursuant to this subsection (as in effect immediately before November 15, 1990) shall remain in effect for purposes of implementing the maximum allowable increases in concentrations of particulate matter (measured in terms of total suspended particulates) pursuant to section 163(b) of this title, until the Administrator determines that such designation is no longer necessary for that purpose."

Section 166(f) of the 1990 amended Act authorizes EPA to replace the TSP increments with PM<sub>10</sub> increments, and in 1993, EPA promulgated the PM<sub>10</sub> increments and revised the PSD regulations accordingly. See 58 FR 31622 (June 3, 1993). In our June 1993 final rule, we indicated that the replacement of the TSP increments with PM<sub>10</sub> increments negates the need for the TSP attainment or unclassifiable area designations to be retained. We also indicated that we would delete such

TSP designations in 40 CFR part 81 upon the occurrence of, among other circumstances, EPA's approval of a State's or local agency's revised PSD program containing the PM<sub>10</sub> increments. See 58 FR 31622, at 31635 (June 3, 1993).

In November 2002, we deleted the TSP attainment or unclassifiable area designations throughout the State of Nevada, except for those in Clark County. See 67 FR 68769 (November 13, 2002). In our November 2002 final rule, we did not delete any nonattainment area designations for the TSP NAAQS. In today's action, we are deleting all of the remaining TSP attainment or unclassifiable area designations in the State of Nevada and are deleting all of the TSP nonattainment area designations except for the Las Vegas planning area (i.e., HA #212, Las Vegas Valley) and the Reno planning area (i.e., HA #87, Truckee Meadows).<sup>1</sup>

## II. EPA's Evaluation of the Effect of Deleting Certain TSP Area Designations

### A. General Considerations

Consistent with section 107(d)(4)(B), we have considered the continued necessity for retaining the remaining TSP area designations in Nevada, and as discussed in more detail in the following subsections, we have decided that the TSP attainment or unclassifiable area designations we specifically retained in our November 2002 final rule and the TSP nonattainment designations for Carson Desert (HA #101), Winnemucca Segment (HA #70), Lower Reese Valley (HA #59), Fernley Area (HA #76), Mason Valley (HA #108), and Clovers Area (HA #64), are no longer necessary. As a result, we are deleting them from the TSP table in 40 CFR 81.329.

To evaluate whether the TSP area designations should be retained or can be deleted, we have relied upon the final rule implementing the PM<sub>10</sub> NAAQS (see 52 FR 24634, July 1, 1987), a policy memorandum on TSP redesignations (see memo dated May 20, 1992 from Joseph W. Paisie, Acting Chief, SO<sub>2</sub>/Particulate Matter Programs Branch, EPA Office of Air Quality

Planning and Standards, to Chief, Air Branch, Regions I–X, entitled “TSP Redesignation Request”), and our proposed and final rules establishing maximum allowable increases in concentrations (also known as “increments”) for PM<sub>10</sub> (see the proposed rule at 54 FR 41218, October 5, 1989, and the final rule at 58 FR 31622, June 3, 1993).

Based on the above references, we believe that the relevant considerations for evaluating whether the necessity of retaining the TSP area designations depend upon the status of a given area with respect to TSP and PM<sub>10</sub>. For areas that are attainment or unclassifiable for TSP and also unclassifiable for PM<sub>10</sub>, we generally find that the TSP designations are no longer necessary and can be deleted when EPA (1) approves a State's revised PSD program containing the PM<sub>10</sub> increments, (2) promulgates the PM<sub>10</sub> increments into a State's SIP where the State chooses not to adopt the increments on their own, or (3) approves a State's request for delegation of PSD responsibility under 40 CFR section 52.21(u). See 58 FR 31622, at 31635 (June 3, 1993).

For areas that are nonattainment for TSP but unclassifiable for PM<sub>10</sub>, an additional consideration is whether deletion of the TSP designations would automatically relax any emissions limitations, control measures or programs approved into the SIP. If such a relaxation would occur automatically with deletion of the TSP area designations, then we will not delete the designations until we are satisfied that the resulting SIP relaxation would not interfere with any applicable requirement concerning attainment, reasonable further progress (RFP), or maintenance of the NAAQS or any other requirement of the Clean Air Act in the affected areas. See section 110(l) of the Act.

### B. Deletion of TSP Attainment or Unclassifiable Area Designations in Clark County

This subsection addresses the 28 TSP attainment or unclassifiable areas that are located either partially or entirely within the Clark County, Nevada. These 28 areas are designated as unclassifiable for PM<sub>10</sub>.

In our November 2002 final rule deleting certain TSP attainment or unclassifiable area designations in Nevada, we indicated that we would delete the TSP attainment or unclassifiable area designations partially or entirely located in Clark County once we approve revisions to the Clark County pre-construction stationary source permit program

(referred to as “new source review”) that implement the PM<sub>10</sub> increments. See 67 FR 68769, at 68776 (November 13, 2002). (In Clark County, the agency responsible for the stationary source control program is the Clark County Department of Air Quality and Environmental Management.) In September 2004, we approved such revisions as part of our approval of comprehensive revisions to the Clark County new source review program. See 69 FR 54006 (September 7, 2004). Thus, we now find that the 28 TSP attainment or unclassifiable area designations either partially or entirely located within Clark County are no longer necessary and can be deleted. These areas include the Colorado River Valley (HA #213) and 27 other hydrographic areas included within the shorthand term, “rest of county,” in the “Nevada-TSP” table in 40 CFR 81.329.

### C. Deletion of TSP Nonattainment Area Designations for Carson Desert, Winnemucca Segment, Lower Reese Valley, Fernley Area, Mason Valley, and Clovers Area

This subsection addresses the deletion of the TSP nonattainment designations for Carson Desert (HA #101), Winnemucca Segment (HA #70), Lower Reese Valley (HA #59), Fernley Area (HA #76), Mason Valley (HA #108), and Clovers Area (HA #64). These six TSP nonattainment areas are designated as unclassifiable for PM<sub>10</sub>.

With respect to protection of the PM<sub>10</sub> increments, the TSP nonattainment designations are no longer necessary in these six areas because they are designated as unclassifiable for PM<sub>10</sub>, and as such, have been subject to the PM<sub>10</sub> increments established in our 1993 final rule as of the effective date of that rule, i.e., June 3, 1994, through EPA's PSD pre-construction permit program promulgated at 40 CFR 52.21. See 40 CFR 52.1485(b) and note that these six areas lie outside of Clark County.

To ensure that deletion of the TSP nonattainment designations for these six areas would not result in any automatic relaxations in SIP emissions limitations, control measures or programs that would be interfere with attainment, RFP or maintenance of the NAAQS (including PM<sub>10</sub>) or any other requirement of the Act, we reviewed the applicable portions of the SIP, with particular focus on the TSP control strategy attainment plans that were approved for these TSP nonattainment areas. These plans include the Carson Desert Air Quality Implementation Plan (AQIP), the Winnemucca Segment AQIP, the Lander County Air Quality

<sup>1</sup> In June 1992, the State of Nevada requested that we reclassify the eight existing TSP nonattainment areas in Nevada to “unclassifiable” status. See letter from L.H. Dodgion, Administrator, NDEP, to Daniel W. McGovern, Regional Administrator, EPA Region IX, dated June 15, 1992. We believe that deletion of the TSP nonattainment designations for the six areas addressed in this action is administratively more efficient than redesignation of the six areas to unclassifiable. We will consider deletion of the two TSP area designations that will remain after our action today, i.e., the TSP designations for Las Vegas (HA #212, Las Vegas Valley) and Reno (HA #87, Truckee Meadows), in future rulemakings.

Improvement Plan (which covers both the Lower Reese Valley and Clovers areas), and the Mason Valley and Fernley Area AQIP.

These four plans (which cover the six areas) were submitted by the State of Nevada to EPA on December 29, 1978. We also reviewed the materials that the State of Nevada submitted to EPA to supplement these plans, including the paving schedules as submitted on July 24, 1979 for the city of Fallon (Carson Desert), the city of Winnemucca (Winnemucca Segment), and the cities of Fernley and Yerington (Mason Valley and Fernley areas); a resolution adopted by Lander County (Lower Reese Valley and Clovers areas) as submitted on July 24, 1979; and the State's nonattainment new source review rule (Article 13.1.3) as submitted on March 17, 1980. We approved all four plans, as supplemented, on April 14, 1981 (at 46 FR 21758), on condition that the State identify and commit the monetary and manpower resources necessary for implementation of these plans. The State identified the necessary resources in a letter submitted to EPA on October 21, 1981. This letter provided the basis on April 13, 1982 (at 47 FR 15790) for EPA to revoke the condition placed on full approval of the four TSP plans.

A review of these four plans, as supplemented and approved, reveals that the TSP problems in these areas were caused by similar types of sources and that attainment of the TSP NAAQS (projected for 1982) relied upon a similar mix of control measures. While the relative proportions of the various source categories vary somewhat among the four areas, the emissions inventories prepared for these plans indicate that the principal sources of TSP in these areas are fugitive sources, such as travel over unpaved roads and construction activities, and industrial processing activities. As such, the control strategies set forth in all of the plans rely on local dust ordinances, completion of local road paving projects, and regulation of emissions from industrial processing activities.

Among the local dust ordinances referred to in these four plans, only one, the Lander County Dust Ordinance (LC8-78), was submitted and approved by EPA as a revision to the Nevada SIP. None of the provisions in the Lander County Dust Ordinance are contingent upon the continuation of a TSP nonattainment designation, and thus deletion of the designation would not automatically relax any of the dust control requirements set forth therein. Likewise, none of the road paving project commitments in the TSP nonattainment areas is contingent upon

the continuation of the TSP nonattainment designations, and by their own terms, all of these projects were to have been completed 20+ years ago.

With respect to industrial sources, the TSP plans rely upon the Nevada Division of Environmental Protection (NDEP) to implement and enforce rules adopted by the State Environmental Commission (SEC) that establish emissions limitations on existing sources (referred to as "prohibitory" rules) and that establish pre-construction permitting requirements for new or modified stationary sources (referred to as "new source review"). NDEP is the agency directly responsible for regulation of stationary sources of air pollution throughout the State of Nevada with the exception of Clark and Washoe counties and is the applicable air quality agency in the six TSP nonattainment areas addressed in this action. The air pollution control rules administered by NDEP were originally codified as "Articles" of the State of Nevada Air Quality Regulations (NAQR), but the original SIP rules have largely been superseded by subsequently submitted (and approved) rules that have been codified in chapter 445, then later, in chapter 445B, of the Nevada Administrative Code (NAC).

Thus, we reviewed the relevant State prohibitory rules approved by EPA as revisions to the Nevada SIP. These rules include NAC 445B.22017 ("Visible emissions: Maximum opacity; determination and monitoring of opacity"), NAC 445B.22067 ("Open burning"), NAC 445B.2207 ("Incinerator burning"), NAQR Article 7.2.5.1 (source-specific particulate matter limits for Milchem Incorporated near Battle Mountain), NAC 445.730 ("Colemanite flotation processing plants"), NAC 445B.2203 ("Emissions of particulate matter: Fuel-burning equipment"), NAC 445B.22033 ("Emissions of particulate matter: Sources not otherwise limited"), NAC 445B.22037 ("Emissions of particulate matter: Fugitive dust"), NAQR article 16.3.3.2 and 16.3.3.3 (opacity standards for portland cement plants), NAC 445.808 (source-specific particulate and opacity limits for certain barite processing facilities), and NAC 445.816 (source-specific particulate and opacity limits for certain precious metal ore processing facilities). None of the provisions in these various rules are contingent upon continuation of the TSP nonattainment designations and thus deletion of the TSP designations would not automatically relax any standard.

Lastly, we reviewed the relevant EPA-approved new source review rules (i.e.,

pre-construction permitting rules for new or modified stationary sources), in particular NAQR Article 13, section 13.1.3, which we approved in 1981 (see 46 FR 21758, April 14, 1981). We note that the specific requirements of paragraph (2) of section 13.1.3, including a control technology requirement for the lowest achievable emission rate (LAER) and the provision for offsets, apply to certain new point sources (those for which an Environmental Evaluation (EE) must be prepared) in "any designated nonattainment area" for "each nonattainment pollutant."

The term "nonattainment area" is defined in the Nevada SIP (see NAC 445B.112) and may well continue to apply to TSP designations that remain in 40 CFR 81.329. However, the term "nonattainment pollutant" is not defined in the Nevada SIP but can be assumed to relate to the pollutants for which ambient air quality standards are established because area designations, such as the designation of "nonattainment," follow from the establishment of such standards for a given air pollutant. Such pollutants are often referred to as "criteria air pollutants." The Nevada SIP lists criteria air pollutants and associated ambient air quality standards in NAC 445B.22097 ("Standards of quality for ambient air"), which we approved on March 27, 2006 (71 FR 15040). The prior SIP rule, NAC 445.843, that was replaced by NAC 445B.22097, had listed the TSP NAAQS, but NAC 445B.22097 does not. With respect to particulate matter, NAC 445B.22097 lists only one pollutant, PM<sub>10</sub>. Thus, at least since the effective date of our March 2006 final rule (i.e., April 26, 2006), "nonattainment pollutant" no longer refers to TSP for the purposes of NAQR article 13.1.3. Thus, deletion of the six TSP nonattainment designations would have no effect on new source review in those six areas.

In summary, because the deletion of the TSP nonattainment designations for the six TSP areas would not automatically relax any emissions limitation or control measure in the Nevada SIP, we find that the TSP nonattainment designations are no longer necessary and can be deleted. Based on the above discussion and evaluation, therefore, we are deleting Carson Desert (HA #101), Winnemucca Segment (HA #70), Lower Reese Valley (HA #59), Fernley Area (HA #76), Mason Valley (HA #108), and Clovers Area (HA #64) from the "Nevada-TSP" table in 40 CFR 81.329.

### III. Final Action and Request for Comment

For the reasons given above, EPA is taking action, under section 107(d)(4)(B) of the Clean Air Act, as amended in 1990, to delete all of the remaining area designations for total suspended particulate within the State of Nevada [except for Las Vegas Valley (HA #121) and Truckee Meadows (HA #87)] because the designations are no longer necessary. To codify this action, the chart in 40 CFR 81.329 entitled “Nevada-TSP” is being modified to delete the entries for Colorado River Valley and “Rest of County” under Clark County as well as the entries for Carson Desert, Winnemucca Segment, Lower Reese Valley, Fernley Area, Mason Valley, and Clovers Area, effective June 17, 2013.

EPA is publishing this rule without prior proposal because we view this as a non-controversial action and anticipate no adverse comments. However, in the Proposed Rules section of this **Federal Register**, we are publishing a separate document that will serve as a proposal to delete the Nevada TSP area designations discussed above if relevant adverse comments are received. This rule will be effective on June 17, 2013 without further notice unless we receive adverse comment by May 16, 2013. If we receive adverse comments, we will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. We will address all public comments in a subsequent final rule based on the proposed rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so now. Please note that if we receive adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of an adverse comment.

### IV. 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 deletes certain area designations that had been established for air quality planning purposes but that are no longer

necessary and imposes no 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 deletes certain area designations that had been established for air quality planning purposes but that are no longer necessary and 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 67249, 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 deletes certain area designations that had been established for air quality planning purposes but that are no longer necessary, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. 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 as defined in Executive Order 12866, and because the Agency does not have reason to believe the environmental health or safety risks addressed by this rule present a disproportionate risk to children.

This rule does not involve establishment of technical standards, and thus, 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. section 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996,

generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. section 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by *June 17, 2013*. 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. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today’s **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so the EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. 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: April 1, 2013.

**Jared Blumenfeld,**

*Regional Administrator, Region IX.*

Part 81, Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

#### PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

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

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

**Subpart C—Section 107 Attainment Status Designations** § 81.329 Nevada.

■ 2. In § 81.329, the table “Nevada—TSP” is revised to read as follows:

NEVADA—TSP

Designated Area <sup>1</sup>	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
(Township Range):				
Las Vegas Valley (212) (15–24S, 56–64E) .....	X			
Truckee Meadows (87) (17–20N, 18–21E) .....	X			

<sup>1</sup> “Designated area” refers to hydrographic areas identified by number as shown on the State of Nevada Division of Water Resources’ map titled Water Resources and Inter-basin Flows (September 1971). Township and Range is shown for general information purposes only.

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