

the letter dated November 4, 2011, the Petitioners asked for reconsideration of several aspects of the minor NSR rule and one aspect of the nonattainment major NSR rule. The EPA considered the Petitions, including the request for an administrative stay, along with information contained in the rulemaking docket, in reaching a decision on the Petitions generally and the request for an administrative stay specifically. In letters to the Petitioners dated December 19, 2012, the EPA Administrator, Lisa P. Jackson, expressed her intent to grant reconsideration of several aspects of the Petitions and denied reconsideration of several other aspects raised in the Petitions, including the request for administrative stay. She took no action at this time with respect to several other

issues raised in the Petitions. The denials of reconsideration and of the request for an administrative stay constitute final agency action.

**DATES:** January 10, 2013.

**FOR FURTHER INFORMATION CONTACT:** Ms. Jessica Montañez, Air Quality Policy Division, Office of Air Quality Planning and Standards (C504-03), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711, telephone number: (919) 541-3407; email address: [montanez.jessica@epa.gov](mailto:montanez.jessica@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Where can I get copies of this document and other related information?**

This **Federal Register** notice, the petitions for reconsideration and the

letter granting certain aspects of the petitions for reconsideration and denying the request for an administrative stay are available in the docket that the EPA established for the final rule titled, "Review of New Sources and Modifications in Indian Country," published on July 1, 2011, 76 FR 38748, under Docket ID No. EPA-HQ-OAR-2003-0076. The table below identifies the Petitioners, the dates the EPA received the Petitions, the document identification number of the Petitions, the date of the EPA's response, and the document identification number for the EPA's response.

Petitioners	Dates of petitions to the EPA	Petition: document No. in docket	Date of the EPA response	The EPA response: document No. in docket
American Petroleum Institute (API)/Independent Petroleum Association of America (IPAA)/America's Natural Gas Alliance (ANGA).	08/30/2011 and 11/04/2011.	0172	December 19, 2012 .....	0173

**Note:** All document numbers listed in the table are in the form of "EPA-HQ-OAR-2003-0076-xxxx."

All documents in the docket are listed on the <http://www.regulations.gov> Web site. Although listed in the index, some information may not be publicly available, i.e., confidential business information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available electronically through <http://www.regulations.gov> or in hard copy at the EPA Docket Center, Docket ID. No. EPA-HQ-OAR-2003-0076, EPA West, Room 3334, 1301 Constitution Avenue, North West, Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the EPA Docket Center is (202) 566-1742.

In addition to being available in the docket, an electronic copy of this **Federal Register** notice and the EPA's response letter to the petitioners are also available on the World Wide Web at <http://www.epa.gov/nsr> and on the Tribal Air home page at <http://www.epa.gov/oar/tribal>.

**II. Judicial Review**

Under CAA section 307(b), judicial review of this final action is available only by filing a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit on or before March 11, 2013.

Dated: December 27, 2012.

**Gina McCarthy,**

*Assistant Administrator, Office of Air and Radiation.*

[FR Doc. 2012-31742 Filed 1-9-13; 8:45 am]

**BILLING CODE 6560-50-P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[EPA-R09-OAR-2012-0781; FRL-9768-2]

**Determination of Attainment for the Yuba City-Marysville Nonattainment Area for the 2006 Fine Particle Standard; California; Determination Regarding Applicability of Clean Air Act Requirements**

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

**ACTION:** Final rule.

**SUMMARY:** EPA is taking final action to determine that the Yuba City-Marysville nonattainment area in California has attained the 2006 24-hour fine particle

(PM<sub>2.5</sub>) National Ambient Air Quality Standard (NAAQS). This determination is based upon complete, quality-assured, and certified ambient air monitoring data showing that this area has monitored attainment of the 2006 24-hour PM<sub>2.5</sub> NAAQS based on the 2009-2011 monitoring period. Based on the above determination, the requirements for this area to submit an attainment demonstration, together with reasonably available control measures (RACM), a reasonable further progress (RFP) plan, and contingency measures for failure to meet RFP and attainment deadlines are suspended for so long as the area continues to attain the 2006 24-hour PM<sub>2.5</sub> NAAQS.

**DATES:** This rule is effective on February 11, 2013.

**ADDRESSES:** EPA has established docket number EPA-R09-OAR-2012-0781 for this action. Generally, documents in the docket for this action are 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 at [www.regulations.gov](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 publicly available in either location (e.g.,

Confidential Business Information). 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:** John Ungvarsky, (415) 972-3963, or by email at [ungvarsky.john@epa.gov](mailto:ungvarsky.john@epa.gov).

**SUPPLEMENTARY INFORMATION:**

Throughout this document, wherever “we”, “us” or “our” are used, we mean EPA.

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**I. Summary of Proposed Action**

On October 30, 2012 (77 FR 65646), EPA proposed to determine that the Yuba City-Marysville nonattainment area<sup>1</sup> has attained the 2006 24-hour NAAQS<sup>2</sup> for fine particles (generally referring to particles less than or equal to 2.5 micrometers in diameter, PM<sub>2.5</sub>).

In our proposed rule, we explained how EPA makes an attainment determination for the 2006 24-hour PM<sub>2.5</sub> NAAQS by reference to complete, quality-assured data gathered at a State and Local Air Monitoring Station(s) (SLAMS) and entered into EPA’s Air Quality System (AQS) database and by reference to 40 CFR 50.13 (“National primary and secondary ambient air quality standards for PM<sub>2.5</sub>”) and appendix N to [40 CFR] part 50 (“Interpretation of the National Ambient Air Quality Standards for PM<sub>2.5</sub>”). EPA proposed the determination of attainment for the Yuba City-Marysville area based upon a review of the monitoring network operated by the California Air Resources Board (CARB) and the data collected at the one monitoring site operating during the most recent complete three-year period (i.e., 2009 to 2011). Based on this review, EPA found that complete, quality-assured and certified data for the Yuba City-Marysville area showed that the 24-hour design value for the 2009–2011 period was equal to or less than 35 µg/m<sup>3</sup> at the monitor site. See the data summary table on page 65648 of the October 30, 2012 proposed rule. We also

<sup>1</sup> The Yuba City-Marysville PM<sub>2.5</sub> nonattainment area includes Sutter County and the southwestern two-thirds of Yuba County. This nonattainment area lies within the Sacramento Valley Air Basin and lies between the Chico PM<sub>2.5</sub> nonattainment area to the north and the Sacramento PM<sub>2.5</sub> nonattainment area to the south.

<sup>2</sup> The 2006 24-hour PM<sub>2.5</sub> NAAQS is 35 micrograms per cubic meter (µg/m<sup>3</sup>), based on a 3-year average of the 98th percentile of 24-hour concentrations.

noted that preliminary data available in AQS for 2012 indicates that the Yuba City-Marysville area continues to attain the NAAQS.

In our proposed rule, based on the proposed determination of attainment, we also proposed to apply EPA’s Clean Data Policy to the 2006 PM<sub>2.5</sub> NAAQS and thereby suspend the requirements for this area to submit an attainment demonstration, associated reasonably available control measures (RACM), a reasonable further progress (RFP) plan, and contingency measures for so long as the area continues to attain the 2006 24-hour PM<sub>2.5</sub> NAAQS. See pages 65648–65650 of our October 30, 2012 proposed rule. In proposing to apply the Clean Data Policy to the 2006 PM<sub>2.5</sub> NAAQS, we explained how we are applying the same statutory interpretation with respect to the implications of clean data determinations that the Agency has long applied in regulations for the 1997 8-hour ozone and PM<sub>2.5</sub> NAAQS and in individual rulemakings for the 1-hour ozone, PM<sub>10</sub> and lead NAAQS.

Please see the October 30, 2012 proposed rule for more detailed information concerning the PM<sub>2.5</sub> NAAQS, designations of PM<sub>2.5</sub> nonattainment areas, the regulatory basis for determining attainment of the NAAQS, CARB’s PM<sub>2.5</sub> monitoring network, EPA’s review and evaluation of the data, and the rationale and implications for application of the Clean Data Policy to the 2006 PM<sub>2.5</sub> NAAQS.

**II. Public Comments and EPA Responses**

EPA’s proposed rule provided a 30-day public comment period. During this period, we received no comments.

**III. EPA’s Final Action**

For the reasons provided in the proposed rule and summarized herein, EPA is taking final action to determine that the Yuba City-Marysville nonattainment area in California has attained the 2006 24-hour PM<sub>2.5</sub> NAAQS based on the most recent three years of complete, quality-assured, and certified data in AQS for 2009–2011. Preliminary data available in AQS for 2012 show that this area continues to attain the standard.

EPA is also taking final action, based on the above determination of attainment, to suspend the requirements for the Yuba City-Marysville nonattainment area to submit an attainment demonstration and associated RACM, a RFP plan, contingency measures, and any other planning SIPs related to attainment of the 2006 PM<sub>2.5</sub> NAAQS for so long as the area continues to attain the 2006

PM<sub>2.5</sub> NAAQS. EPA’s final action is consistent and in keeping with its long-held interpretation of CAA requirements, as well as with EPA’s regulations for similar determinations for ozone (see 40 CFR 51.918) and the 1997 fine particulate matter standards (see 40 CFR 51.1004(c)).

Today’s final action does not constitute a redesignation of the Yuba City-Marysville nonattainment area to attainment for the 2006 24-hour PM<sub>2.5</sub> NAAQS under CAA section 107(d)(3) because we have not yet approved a maintenance plan for the Yuba City-Marysville nonattainment area as meeting the requirements of section 175A of the CAA or determined that the area has met the other CAA requirements for redesignation. The classification and designation status in 40 CFR part 81 remain nonattainment for this area until such time as EPA determines that California has met the CAA requirements for redesignating the Yuba City-Marysville nonattainment area to attainment.

If the Yuba City-Marysville nonattainment area continues to monitor attainment of the 2006 PM<sub>2.5</sub> NAAQS, the requirements for the area to submit an attainment demonstration and associated RACM, a RFP plan, contingency measures, and any other planning requirements related to attainment of the 2006 PM<sub>2.5</sub> NAAQS will remain suspended. If after today’s action EPA subsequently determines, after notice-and-comment rulemaking in the **Federal Register**, that the area has violated the 2006 PM<sub>2.5</sub> NAAQS, the basis for the suspension of the attainment planning requirements for the area would no longer exist, and the area would thereafter have to address such requirements.

**IV. Statutory and Executive Order Reviews**

This final action makes a determination of attainment based on air quality and suspends certain federal requirements, and thus, this action would not impose additional requirements beyond those imposed by state law. For this reason, the final 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 CAA; 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 final action 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 this action will not impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by March 11, 2013. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

#### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Particulate matter, Nitrogen oxides, Sulfur oxides, Reporting and recordkeeping requirements.

Dated: December 18, 2012.

**Jared Blumenfeld,**

*Regional Administrator, Region IX.*

Part 52, Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

## PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

- 1. The authority citation for Part 52 continues to read as follows:

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

### Subpart F—California

- 2. In § 52.247, paragraph (b) is added to read as follows:

#### § 52.247 Control Strategy and Regulations: Fine Particle Matter.

\* \* \* \* \*

(b) *Determination of Attainment:* Effective February 11, 2013, EPA has determined that, based on 2009 to 2011 ambient air quality data, the Yuba City-Marysville PM<sub>2.5</sub> nonattainment area has attained the 2006 24-hour PM<sub>2.5</sub> NAAQS. This determination suspends the requirements for this area to submit an attainment demonstration, associated reasonably available control measures, a reasonable further progress plan, contingency measures, and other planning SIPs related to attainment for as long as this area continues to attain the 2006 24-hour PM<sub>2.5</sub> NAAQS. If EPA determines, after notice-and-comment rulemaking, that this area no longer meets the 2006 PM<sub>2.5</sub> NAAQS, the corresponding determination of attainment for that area shall be withdrawn.

[FR Doc. 2013–00177 Filed 1–9–13; 8:45 am]

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