



## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 81

[EPA-R09-OAR-2019-0145; FRL-10019-97-Region 9]

#### **Approval and Promulgation of Implementation Plans; Designation of Areas for Air Quality Planning Purposes; California; South Coast Moderate Area Plan and Reclassification as Serious Nonattainment for the 2012 PM<sub>2.5</sub> NAAQS; Correcting Amendment**

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

**ACTION:** Correcting amendment.

**SUMMARY:** On November 9, 2020, the Environmental Protection Agency (EPA) issued a final rule titled “Approval and Promulgation of Implementation Plans; Designation of Areas for Air Quality Planning Purposes; California; South Coast Moderate Area Plan and Reclassification as Serious Nonattainment for the 2012 PM<sub>2.5</sub> NAAQS.” That publication inadvertently omitted from the description of the Riverside County portion of the designated area, language indicating that the lands of the Santa Rosa Band of Cahuilla Mission Indians and Pechanga Band of Luiseno Mission Indians of the Pechanga Reservation are excluded from that portion of the Los Angeles-South Coast Air Basin nonattainment area for the 2012 national ambient air quality standard (NAAQS) for fine particulate matter (PM<sub>2.5</sub>). This document corrects the error in the regulatory text.

**DATES:** This rule is effective on [Insert date of publication in the *Federal Register*].

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA-R09-OAR-2019-0145. All documents in the docket are listed on the <https://www.regulations.gov> web site. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) 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 through <https://www.regulations.gov>, or please contact the person identified in the **FOR**

**FURTHER INFORMATION CONTACT** section for additional availability information. If you need assistance in a language other than English or if you are a person with disabilities who needs a reasonable accommodation at no cost to you, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

**FOR FURTHER INFORMATION CONTACT:** Ashley Graham, Air Planning Office (AIR-2), EPA Region IX, 75 Hawthorne Street, San Francisco, CA 94105, (415) 972-3877 or by email at *graham.ashleyr@epa.gov*.

**SUPPLEMENTARY INFORMATION:** On November 9, 2020, the EPA issued a final rule titled “Approval and Promulgation of Implementation Plans; Designation of Areas for Air Quality Planning Purposes; California; South Coast Moderate Area Plan and Reclassification as Serious Nonattainment for the 2012 PM<sub>2.5</sub> NAAQS.”<sup>1</sup> That publication inadvertently omitted from the description of the Riverside County portion of the designated area, language indicating that the lands of the Santa Rosa Band of Cahuilla Mission Indians and Pechanga Band of Luiseno Mission Indians of the Pechanga Reservation are excluded from that portion of the Los Angeles-South Coast Air Basin nonattainment area for the 2012 PM<sub>2.5</sub> NAAQS. This action corrects the omission and revises the entry as intended in the November 9, 2020 final rule.

The EPA has determined that this action falls under the “good cause” exemption in section 553(b)(3)(B) of the Administrative Procedure Act (APA) which, upon finding “good cause,” authorizes agencies to dispense with public participation where public notice and comment procedures are impracticable, unnecessary, or contrary to the public interest. Public notice and comment for this action are unnecessary because the underlying rule for which this correcting amendment has been prepared was already subject to a 30-day comment period, and this action merely corrects an error in the rule text. Further, this action is consistent with the purpose and rationale of the final rule, which is corrected herein. Because this action does not change the EPA’s analyses or overall actions, no purpose would be served by additional public notice and

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<sup>1</sup> 85 FR 71264.

comment. Consequently, additional public notice and comment are unnecessary.

The EPA also finds that there is good cause under APA section 553(d)(3) for this correction to become effective on the date of publication of this action. Section 553(d)(3) of the APA allows an effective date of less than 30 days after publication “as otherwise provided by the agency for good cause found and published with the rule.” 5 U.S.C. 553(d)(3). The purpose of the 30-day waiting period prescribed in APA section 553(d)(3) is to give affected parties a reasonable time to adjust their behavior and prepare before the final rule takes effect. This rule does not create any new regulatory requirements such that affected parties would need time to prepare before the rule takes effect. This action merely corrects an error in a previous rulemaking. For these reasons, the EPA finds good cause under APA section 553(d)(3) for this correction to become effective on the date of publication of this action.

#### **Statutory and Executive Order Reviews**

This action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Is not subject to sections 202 and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104-4);
- Does not impose a significant intergovernmental mandate or significantly or uniquely affect small governments, as described in sections 203 and 204 of the UMRA;
- 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 this error correction action does not involve technical standards; and
- Does not involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

In issuing this rule, the EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct, as required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996). The EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1998) by examining the takings implications of the rule in accordance with the “Attorney General’s Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings” issued under the executive order.

The Congressional Review Act (CRA) (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. Section 808 allows the issuing agency to make a rule effective sooner than otherwise

provided by the CRA if the Agency makes a good cause finding that notice and public procedure is impracticable, unnecessary or contrary to the public interest. This determination must be supported by a brief statement. 5 U.S.C. 808(2). As stated previously, the EPA has made such a good cause finding, including the reasons therefore, and established an effective date of **[Insert Date of publication in the *Federal Register*]**. The 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*. This correction to 40 CFR part 81 for California is not a “major rule” as defined by 5 U.S.C. 804(2).

**List of Subjects in 40 CFR Part 81**

Environmental protection, Air pollution control, Particulate matter.

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

Dated: March 11, 2021.

Deborah Jordan,  
Acting Regional Administrator,  
Region IX.

For the reasons stated in the preamble, the EPA corrects Part 81, Chapter I, Title 40 of the Code of Federal Regulations by making the following correcting amendments:

**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

2. In section 81.305 amend the table titled “California—2012 Annual PM<sub>2.5</sub> NAAQS [Primary],” by revising the entries under “Riverside County (part)” under “Los Angeles-South Coast Air Basin, CA” to read as follows:

**§ 81.305 California.**

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**California—2012 Annual PM<sub>2.5</sub> NAAQS [Primary]**

Designated area <sup>1</sup>	Designation		Classification	
	Date <sup>2</sup>	Type	Date <sup>2</sup>	Type
Los Angeles-South Coast Air Basin, CA:				
*****				
Riverside County (part)		Nonattainment	December 9, 2020	Serious.
That portion of Riverside County which lies to the west of a line described as follows: Beginning at the Riverside-San Diego County boundary and running north along the range line common to Range 4 East and Range 3 East, San Bernardino Base and Meridian; then east along the Township line common to Township 8 South and Township 7 South; then north along the range line common to Range 5 East and Range 4 East; then west				

<p>along the Township line common to Township 6 South and Township 7 South to the southwest corner of Section 34, Township 6 South, Range 4 East; then north along the west boundaries of Sections 34, 27, 22, 15, 10, and 3, Township 6 South, Range 4 East; then west along the Township line common to Township 5 South and Township 6 South; then north along the range line common to Range 4 East and Range 3 East; then west along the south boundaries of Sections 13, 14, 15, 16, 17, and 18, Township 5 South, Range 3 East; then north along the range line common to Range 2 East and Range 3 East; to the Riverside-San Bernardino County line (excluding the lands of the Santa Rosa Band of Cahuilla Mission Indians, and excluding the lands of the Pechanga Band of Luiseno Mission Indians of the Pechanga Reservation).</p>				
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<sup>1</sup> Includes areas of Indian country located in each county or area, except as otherwise specified.

<sup>2</sup> This date is April 15, 2015, unless otherwise noted.

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