ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52


Determination of Attainment by the Region 9

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit https://www.epa.gov/dockets/commenting-epa-dockets.

FURTHER INFORMATION CONTACT: Jerry Wamsley, EPA Region IX, (415) 947–4111, wamsley.jerry@epa.gov.

SUPPLEMENTARY INFORMATION:
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I. Background and Regulatory Context

This proposed action is related to the ongoing efforts of states and the EPA to implement the PM2.5 NAAQS. Since the EPA’s initial promulgation of the NAAQS to address fine particulate matter, there have been significant rulemaking and litigation developments that affect these ongoing efforts. To clarify the proper application of the statutory and regulatory requirements to this action, the EPA is providing a detailed explanation of PM2.5 implementation efforts, nationally and in West Central Pinal County, Arizona.

On July 18, 1997, the EPA established the first NAAQS for PM2.5 (“the 1997 PM2.5 Standards”), including an annual standard of 15.0 micrograms per cubic meter (μg/m³) based on a three-year average of annual 98th percentile 24-hour concentrations for the 1995–2017 period, using complete, quality-assured, and certified PM2.5 monitoring data.

DATES: Written comments must arrive on or before May 28, 2019.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R09–OAR–2019–0068 at https://www.regulations.gov. For comments submitted at Regulations.gov, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e., on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the FOR FURTHER INFORMATION CONTACT section.

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guidance largely instructed states to rely on the 2007 PM$_{2.5}$ Implementation Rule in developing plans to demonstrate attainment of the 2006 24-hour PM$_{2.5}$ NAAQS. The EPA based the 2007 PM$_{2.5}$ Implementation Rule on the requirements of subpart 1, part D of title I of the CAA (“subpart 1”).

On January 4, 2013, the U.S. Court of Appeals for the D.C. Circuit issued its decision regarding the NRDC’s legal challenge to the EPA’s 2007 PM$_{2.5}$ Implementation Rule. In NRDC v. EPA, the court held that the EPA erred in implementing the 1997 PM$_{2.5}$ NAAQS pursuant only to the general implementation requirements of subpart 1, rather than also to the implementation requirements specific to coarse particulate matter (PM$_{10}$) in subpart 4, part D of title I of the CAA (“subpart 4”). The court reasoned that the plain meaning of the CAA requires implementation of the 1997 PM$_{2.5}$ NAAQS under subpart 4 because PM$_{2.5}$ falls within the statutory definition of PM$_{10}$; consequently, implementation of the PM$_{2.5}$ NAAQS is subject to the same statutory requirements as the PM$_{10}$ NAAQS. The court remanded the rule and instructed the EPA “to repromulgate these rules pursuant to Subpart 4 consistent with this opinion.”

Given the result of the NRDC v. EPA decision, the EPA withdrew its March 2012 Implementation Guidance for implementation of the 2006 24-hour PM$_{2.5}$ NAAQS. When withdrawing this guidance, the EPA advised states that the statutory requirements of subpart 4 apply to attainment plans for these NAAQS and reminded states about pre-existing EPA guidance regarding subpart 4 requirements. One practical consequence of this application of subpart 4 to states with areas designated nonattainment for the 2006 24-hour PM$_{2.5}$ NAAQS is that the applicable statutory attainment date is governed by CAA section 188(c), which states that for areas classified as Moderate, the statutory attainment date is “as expeditiously as practicable, but no later than the end of the sixth calendar year after the area’s designation as nonattainment.”

Consistent with the NRDC v. EPA decision, the EPA published a final rule on June 2, 2014, applying all areas that were designated nonattainment for the 1997 and/or 2006 PM$_{2.5}$ standards at the time as Moderate under subpart 4.

The EPA also established a due date of December 31, 2014, for states to submit state implementation plan (SIP) revisions related to attainment and nonattainment new source review required for these areas pursuant to subpart 4. This rulemaking did not affect the statutory attainment dates imposed in subpart 4 and merely provided states with the opportunity to update or revise any prior attainment plan submissions, if necessary, to meet subpart 4 requirements considering the 2013 court decision. This rulemaking did not affect any action that the EPA had previously taken under CAA section 110(k) on a SIP for a PM$_{2.5}$ nonattainment area.

On September 4, 2013, EPA issued a clean data determination for the West Central Pinal County 2006 24-hour PM$_{2.5}$ nonattainment area based on three years of complete, quality-assured, and certified data for the 2010–2012 time frame. The EPA’s clean data determination suspended certain CAA requirements for the West Central Pinal County nonattainment area for so long as the area continues to attain the 2006 PM$_{2.5}$ NAAQS, including requirements to submit an attainment demonstration pursuant to section 189(a)(1)(B), the reasonably available control measure (RACM) provisions of section 189(a)(1)(C), the reasonable further progress (RFP) provisions of section 189(c), and related attainment demonstration, RACM, RFP and contingency measure provisions requirements of subpart 1, section 172.

For an area classified as Moderate under the CAA, section 188(c) states that the statutory attainment date is “as expeditiously as practicable, but no later than the end of the sixth calendar year after the area’s designation as nonattainment.” Therefore, the applicable attainment date for West Central Pinal County, designated nonattainment in 2011 and classified as Moderate in 2014, was December 31, 2017. For a determination of whether any PM$_{2.5}$ nonattainment area classified as Moderate attained the relevant PM$_{2.5}$ NAAQS by the area’s attainment date and requires the EPA to make such a determination within six months after that date. If that Moderate area has not attained the NAAQS by the relevant attainment date, then the CAA requires

10 78 FR 54394 (September 4, 2013).
11 For a discussion of the Clean Data Determination for West Central Pinal County and our clean data policy as applied at that time, see our proposed rulemaking at 78 FR 41901 (July 12, 2013).
12 79 FR 31566, 31569, fn. 5.
13 An area’s highest design value for the 24-hour PM$_{2.5}$ NAAQS is the highest of the three-year average of annual 98th percentile 24-hour average PM$_{2.5}$ mass concentration values recorded at each eligible monitoring site. See definition of “Design values” in 40 CFR part 50, Appendix N, 1.0(c).
14 Because we are determining attainment of the PM$_{2.5}$ NAAQS as of December 31, 2017, in this proposal, the applicable 3-year data review period is 2015–2017. AQS is the EPA’s national repository of ambient air quality data.
15 40 CFR part 50, Appendix N, section 4.2(b).
24-hour PM$_{2.5}$ NAAQS. These criteria include complete, quality-assured and certified data collected from a valid ambient air quality monitoring network and a design value calculated from the ambient data to be less than the applicable NAAQS. Our proposed action and rationale for our proposal are described below.

A. Data Completeness, Network Review, and Certification of Data

In accordance with 40 CFR part 50, Appendix N, a finding of attainment of the 2006 24-hour PM$_{2.5}$ NAAQS must generally be based upon complete, quality-assured data gathered at eligible monitoring sites in the nonattainment area and entered in the AQ5. For the 24-hour PM$_{2.5}$ standards, Appendix N defines eligible monitoring sites as those that meet the technical requirements in 40 CFR 58.11 and 58.30. All data are reviewed to determine the area's air quality status in accordance with 40 CFR 50, Appendix N.

The PM$_{2.5}$ ambient air quality monitoring data collected within the West Central Pinal County nonattainment area for the 2015–2017 three-year period must meet data completeness or substitution criteria according to 40 CFR part 50, Appendix N. The ambient air quality monitoring data completeness requirements are met when quarterly data capture rates for all four quarters in a calendar year are at least 75 percent. For the purposes of this proposal, we reviewed the data for the 2015–2017 period for completeness and determined that the PM$_{2.5}$ data collected by Pinal County met the completeness criterion for all 12 quarters at PM$_{2.5}$ monitoring sites in the West Central Pinal County nonattainment area.

The EPA’s determination as to whether an area has attained the PM$_{2.5}$ NAAQS pursuant to CAA section 188(b)(2) is based on monitored ambient air quality data. The validity of this determination of attainment depends in part on whether the monitoring network adequately measures ambient PM$_{2.5}$ levels in the nonattainment area. Pinal County, Arizona, is the governmental agency with the authority and responsibilities under the State’s laws for collecting ambient air quality data for the West Central Pinal County nonattainment area. Pinal County submits annual monitoring network plans to the EPA. These plans discuss the status of the air monitoring network, as required under 40 CFR part 58. The EPA reviews these annual network plans for compliance with the applicable reporting requirements in 40 CFR 58.10. With respect to PM$_{2.5}$, we have found that the annual network plans submitted by Pinal County meet the applicable requirements under 40 CFR part 58. Furthermore, we concluded in our “Technical Systems Audit Report” of Pinal County’s ambient air quality monitoring program that the ambient air monitoring network currently meets or exceeds the requirements for the minimum number of monitoring sites designated as SLAMS for PM$_{2.5}$ in the West Central Pinal County nonattainment area.

Pinal County certifies annually that the data it submits to AQS are quality-assured and has done so for each year relevant to our determination of attainment, 2015–2017.

B. State and Local Air Monitoring Stations Site Replacement

In January 2016, Pinal County relocated the PM$_{2.5}$ SLAMS monitoring site operating at the Cowtown location and began operating a new PM$_{2.5}$ SLAMS monitoring site at the Hidden Valley location. Beginning in late 2013, Pinal County and the EPA engaged in a cooperative multi-year process to review alternative locations and relocate the Cowtown PM$_{2.5}$ SLAMS monitoring site. Over the course of 2014 and 2015, Pinal County operated temporary monitors at two other potential monitoring site locations (i.e., Hidden Valley, and White and Parker). This allowed Pinal County and the EPA to assess the data from each location and to determine if either of the proposed monitoring site locations met the applicable system modification requirements in 40 CFR part 58.14 for monitoring site relocation. Based on an assessment of PM$_{2.5}$ concentrations, land use, and nearby sources, the EPA approved the relocation of the Cowtown PM$_{2.5}$ SLAMS monitoring site to the new Hidden Valley location.

Specifically, the EPA found that the Hidden Valley location provided the most similar concentrations from similar sources to the Cowtown monitoring site, thus meeting the requirement that a new location is, in fact, a nearby location with the same scale of representation. As noted in the EPA’s approval, the data from the old and new monitoring site locations will be combined to form one continuous data record for design value calculations. Consequently, the 2015–2017 design value is a composite data record consisting of 2015 data from the Cowtown monitoring site and 2016 and 2017 data from the Hidden Valley monitoring site.

C. Determination of Attainment

The EPA’s evaluation of whether the West Central Pinal County nonattainment area has met the 2006 PM$_{2.5}$ 24-hour NAAQS is based on our review of the monitoring data, the adequacy of the PM$_{2.5}$ monitoring network in the nonattainment area, and the reliability of the data collected by the network, as discussed previously. Table 1 shows the annual 98th percentile concentrations for the years 2015–2017. The design value for the 2015–2017 period is calculated as the average of the annual 98th percentiles for each of the three years according to 40 CFR 50, Appendix N, section 4.5. Table 1 shows the calculated 24-hour PM$_{2.5}$ design value for the Cowtown and Hidden Valley monitoring sites within the West Central Pinal County nonattainment area for the 2015–2017 period. The data show that the 24-hour design value for the 2015–2017 period, 32 µg/m$^3$, was equal to or less than 35 µg/m$^3$, the 2006 PM$_{2.5}$ 24-hour NAAQS. Thus, the EPA proposes to determine, based upon three years of complete, quality-assured and certified data from 2015–2017, that the West Central Pinal County nonattainment area has attained the 2006 24-hour PM$_{2.5}$ NAAQS by the applicable attainment date.

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20 We have included in our docket the correspondence transmitting our annual network reviews, e.g., correspondence dated October 30, 2017, from Gwen Yoshimura, Manager, Air Quality Analysis Office, EPA Region IX, to Michael Sundblom, Director, Pinal County Air Quality Control District.

21 We have included in our docket the correspondence concerning our audits, e.g., correspondence dated September 28, 2016, from Elizabeth Adams, Division Director, Air Division, EPA Region IX, to Michael Sundblom, Director, Pinal County Air Quality Control District.

22 We have included in our docket Pinal County’s annual data certification reports for 2015, 2016 and 2017, e.g., correspondence dated April 30, 2018, from Josh DeZeuew, Air Quality Manager, Pinal County Air Quality Control District, to Elizabeth Adams, Division Director, Air Division, EPA Region IX. Annual data certification requirements can be found at 40 CFR 58.15.

23 AQS, Combined Site Sample Values Report, dated March 28, 2019, in the docket for this proposed rulemaking.
IV. Summary of Our Proposed Action

Today, in accordance with section 188(b)(2) of the CAA, the EPA is proposing to determine that the West Central Pinal County Moderate nonattainment area attained the 2006 24-hour PM$_2.5$ NAAQS by its applicable attainment date, December 31, 2017. Our determination of attainment is based on complete, quality-assured and certified PM$_2.5$ monitoring data for the appropriate three-year period, 2015–2017. We are soliciting comments on this proposed determination of attainment by the attainment date.

If our proposal is finalized as proposed, West Central Pinal County will remain a Moderate nonattainment area and will not be reclassified to a Serious nonattainment area. A final rule determining that West Central Pinal County attained the 2006 24-hour PM$_2.5$ NAAQS by its applicable attainment date would not, however, constitute a redesignation of the area to attainment. States are required to meet several additional statutory requirements before the EPA can redesignate a nonattainment area to attainment of a NAAQS, including the EPA’s approval of a state implementation plan demonstrating maintenance of the NAAQS for ten years after redesignation. The EPA is committed to working with states that submit redesignation requests for the 2006 24-hour PM$_2.5$ NAAQS. Our proposal today only addresses our statutory obligation to determine if the West Central Pinal County nonattainment area has attained the 2006 24-hour PM$_2.5$ NAAQS by its applicable attainment date, December 31, 2017.

V. Statutory and Executive Order Reviews

This action proposes to determine that the West Central Pinal County has met the 2006 24-hour PM$_2.5$ NAAQS as a statement of fact according to regulations and requirements discussed in the proposal. For that reason, this proposed 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);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because this action is not significant under Executive Order 12866;
- 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 the 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 determination 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 by Indian country, the proposed determination 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).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Nitrogen dioxides, Fine particulate matter, Ammonia, Sulfur dioxides, Volatile organic compounds, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

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

Dated: April 15, 2019.

Deborah Jordan,
Acting Regional Administrator, Region IX.

[FR Doc. 2019–08309 Filed 4–24–19; 8:45 am]

BILING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 0, 1, 51, 61, 63, and 69

[WC Docket Nos. 18–141, 17–144, 16–143, 05–25, and RM–10593; DA 19–281]

Wireline Competition Bureau Seeks Focused Additional Comment in Business Data Services and USTelecom Forbearance Petition Proceedings and Reopens Secure Data Enclave

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Wireline Competition Bureau reopening the secure data enclave, supplements the record in the business data services (BDS) and USTelecom proceedings with additional tables and information placed in the secure data enclave, and seeks focused comment on whether the additional data informs the extent of competition for transport.

DATES: Comments are due May 9, 2019 and reply comments are due May 16, 2019.

ADDRESSES: Participants in the price cap BDS proceedings previously authorized to access the secure data enclave

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TABLE 1—WEST CENTRAL PINAL COUNTY NONATTAINMENT AREA DESIGN VALUE FOR THE 2006 PM$_{2.5}$ 24-HOUR NAAQS WITH ANNUAL 98TH PERCENTILE CONCENTRATIONS

<table>
<thead>
<tr>
<th>Monitor</th>
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<th>2016</th>
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<td>Hidden Valley</td>
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