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Johnny W. Collett,
Assistant Secretary for Special Education and Rehabilitative Services.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81


RIN 2060–AU14

Reconsideration of the Area Designation for the 2010 1-Hour Sulfur Dioxide (SO2) Primary National Ambient Air Quality Standard for Williamson County, Illinois

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to reconsider the nonattainment designation under the Clean Air Act (CAA) for the Williamson County, Illinois area for the 2010 1-hour sulfur dioxide (SO2) primary national ambient air quality standard (NAAQS). On June 30, 2016, the EPA Administrator signed a final action that designated the Williamson County, Illinois area as nonattainment based on a review of available information. On September 12, 2016, Southern Illinois Power Cooperative (SIPC), the owner of the largest source of SO2 emissions in the area (the Marion Power Station), submitted to the EPA an updated modeling analysis that characterized SO2 air quality in the area at the time of the final designation action. The EPA has reviewed that modeling and concludes the available information demonstrates that, as of the date of the Administrator’s signature on the final action, the Williamson County, Illinois area was not violating the 2010 1-hour SO2 NAAQS and was not contributing to a NAAQS violation in a nearby area. Therefore, the EPA is proposing to change the initial designation of Williamson County, Illinois, from nonattainment to attainment/unclassifiable.

DATES: Comments must be received on or before July 8, 2019.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2019–0011, at http://www.regulations.gov. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from www.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, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit http://www2.epa.gov/doockets/commenting-epa-dockets.

FOR FURTHER INFORMATION CONTACT: For further information concerning this action, please contact Corey Mocka, U.S. EPA, Office of Air Quality Planning and Standards, Air Quality Policy Division, Mail Code C539–01, 109 T.W. Alexander Drive, Research Triangle Park, NC 27709; by telephone at (919) 541–5142 or by email at mocka.corey@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document wherever “we,” “us,” or “our” is used, we mean the EPA.

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In 2011, following the promulgation of the revised SO\textsubscript{2} NAAQS, the state of Illinois initially recommended a designation of unclassifiable for Williamson County. In September 2015, Illinois updated its recommendation for Williamson County to attainment based on air quality modeling conducted by the state and submitted to the EPA. No ambient monitoring data were available for any part of the county. While formulating the EPA’s intended designation, we also received air quality modeling from Sierra Club for this area that purported to demonstrate the area was not attaining the 2010 SO\textsubscript{2} NAAQS. In our review of the two modeling submissions, the EPA found the state’s September 2015 modeling used an emission rate that was below actual 2012–2014 emission rates. The Sierra Club’s modeling, in contrast, used actual 2012–2014 emission rates, consistent with the EPA’s SO\textsubscript{2} NAAQS Designations Modeling Technical Assistance Document (TAD). Most other aspects of the Sierra Club modeling were similar to the modeling submitted by Illinois, though the Sierra Club modeled SO\textsubscript{2} air quality at receptors on the facility-owned “Northern Property” adjacent to the main plant (and identified nonattainment receptors on that property) and Illinois’ modeling did not. The Sierra Club modeling used the same building dimensions as the Illinois modeling. Neither Illinois’ nor Sierra Club’s modeling suggested that the Marion Power Station (or any other sources in the county) contributed to a violation of the NAAQS in any separate nearby area. In February 2016, the EPA notified Illinois Intended nonattainment designation for the entirety of Williamson County based primarily on Sierra Club’s modeling along with consideration of other available evidence.\footnote{Accurate representation of building parameters is important to better account for the effects on modeled concentrations of downwash, eddies, and wakes from buildings. Generally, modeling with building downwash effects tends to result in higher modeled ground concentrations near the building.} \footnote{SIPC included several additional modeling runs as part of the petition for reconsideration that reflected different building dimensions at the Marion Power Station than those used in Illinois’ modeling. Sierra Club’s modeling, and SIPC’s previous March 2016 modeling.} \footnote{SIPC also filed a petition for judicial review of the designation in the Court of Appeals for the Seventh Circuit, which was later transferred to the Court of Appeals for the D.C. Circuit.} \footnote{The EPA’s discussion here and in the TSD for the final designations for areas in Illinois thus focus on analyzing the one SIPC modeling run that used AERMOD in its regulatory default mode.} During the March 2016 public comment period on the intended nonattainment designation, the EPA received three new modeling runs for the area from a consultant to SIPC that purported to demonstrate the area around the Marion Power Station was attaining the 2010 SO\textsubscript{2} NAAQS.\footnote{Illinois Technical Support Document for the EPA’s Final Designations, Docket Item No. EPA–HQ–OAR–2014–0464–0402.} \footnote{Docket Item No. EPA–HQ–OAR–2014–0464–0427.} These modeling runs were all based on actual 2013–2015 emissions. The SIPC modeling runs differed from Illinois’ modeling in some respects but were the same as the Illinois modeling with respect to using the same building geometries and excluding modeling receptors on the facility-owned “Northern Property” adjacent to the main plant. In its comments on the intended nonattainment designation for Williamson County, the state endorsed the new modeling from the SIPC consultant. After analyzing issues with SIPC’s modeling, the EPA concluded that SIPC’s modeling “was incomplete in the sense that an important receptor area [i.e., the Northern Property] was inappropriately excluded from the analysis.”\footnote{EPA’s Intended Designations, Docket Item No. EPA–HQ–OAR–2014–0464–0402.} In the final action signed on June 30, 2016, the EPA designated the entirety of Williamson County as nonattainment, based on consideration of all submitted modeling. Full reviews of all the modeling analyses submitted to the EPA for the designation of Williamson County can be found in the technical support document (TSD) for the intended Illinois designations and the TSD for the final Illinois designations. This designation triggered Illinois’ duty to develop and submit to the EPA a state implementation plan (SIP) under CAA sections 172, 191 and 192 demonstrating attainment of the SO\textsubscript{2} NAAQS.

C. Petitions and Additional Modeling

Received From SIPC Subsequent to the Designation of Williamson County

In September 2016, SIPC submitted a petition for reconsideration of the EPA’s nonattainment designation for Williamson County.\footnote{SIPC also filed a petition for judicial review of the designation in the Court of Appeals for the Seventh Circuit, which was later transferred to the Court of Appeals for the D.C. Circuit.} SIPC included several additional modeling runs as part of the petition for reconsideration that reflected different building dimensions at the Marion Power Station than those used in Illinois’ modeling. Sierra Club’s modeling, and SIPC’s previous March 2016 modeling.\footnote{SIPC also filed a petition for judicial review of the designation in the Court of Appeals for the Seventh Circuit, which was later transferred to the Court of Appeals for the D.C. Circuit.} Overall, SIPC’s

Illinois area was meeting the 2010 SO\textsubscript{2} NAAQS. The EPA’s discussion here and in the TSD for the final designations for areas in Illinois thus focus on analyzing the one SIPC modeling run that used AERMOD in its regulatory default mode.

In Illinois, the petition for review was decided by the Ninth Circuit in Marion Power Station v. Environmental Protection Agency, 893 F.3d 874 (9th Cir. 2018). The Court of Appeals for the Seventh Circuit, which had previously affirmed the EPA’s designation of Williamson County, overruled the EPA’s designation and remanded the issue back to the EPA. The EPA was required to reconsider the designation of Williamson County in light of the new modeling from SIPC and the new modeling from Sierra Club. The EPA also was required to reconsider the designation of Williamson County in light of the petition for review filed by SIPC. The EPA was required to consider all of the new modeling from SIPC and Sierra Club, as well as any additional modeling from Illinois or any other sources in the county. The EPA was required to consider all of the modeling analyses submitted to the EPA for the designation of Williamson County, including the new modeling from SIPC and Sierra Club. The EPA was required to consider all of the modeling analyses submitted to the EPA for the designation of Williamson County, including the new modeling from SIPC and Sierra Club.

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September 2016 modeling of actual emissions indicated no violations of the NAAQS in the 3-year period of 2013–2015 and did not identify any nonattainment receptors on the Northern Property. In January 2017, Administrator McCarthy denied SIPC’s petition for reconsideration, explaining that the petition did not meet the criteria the EPA elected to use to evaluate whether the action warranted reconsideration. In June 2017, SIPC submitted a petition to the EPA seeking error correction of the final rule designating Williamson County, Illinois as nonattainment. In this June 2017 petition, SIPC requested that the EPA correct what SIPC alleged to be particular errors in the EPA’s final designation action for Williamson County.

In September 2017, EPA Administrator Pruitt responded to the letter transmitting SIPC’s petition for error correction by indicating the EPA’s intention to undertake an administrative action with notice and comment to revisit the nonattainment designation. In its September 2016 petition for reconsideration, SIPC indicated that the revised building dimensions were based on a survey conducted in 2016. On November 6, 2018, SIPC submitted to the EPA supplemental information with regard to the specifics of and the basis for the revised building inputs used in the modeling submitted as part of its September 2016 petition for reconsideration. This proposal initiates our notice and comment administrative action to reconsider the designation, based upon our review of this submitted information that characterizes SOx air quality at the time of this area’s designation.

III. Proposed Action

In September 2016, SIPC submitted to the EPA additional information and updated modeling, which included modeling receptors on the Northern Property, pertaining to the designation of Williamson County, Illinois. On November 6, 2018, SIPC submitted to the EPA supplemental information to clarify the specifics of and the basis for the revised building inputs used in the September 2016 modeling. A full review of this supplemental information is provided in the TSD for this action, which is available in the public docket. Based on this review, including consideration of this clarifying information, the EPA proposes that the September 2016 SIPC modeling is representative of the relevant calendar years (2013–2015 actual emissions) of SO2 air quality in Williamson County at the time of the final designation on June 30, 2016. The EPA also proposes to find that the modeling demonstrates that in the 2013–2015 modeling period the area was not violating the 1-hour SO2 NAAQS or was not contributing to a violation in any nearby area at the time of the 2016 final designation.

This information includes the addition of receptors in the Northern Property and refinements of the building dimensions as processed for downwash purposes. The EPA proposes to find that this modeling, with our evaluation of the additional information submitted by SIPC documenting building dimensions and evidence that modeled predictions in the Northern Property are below the 1-hr SO2 NAAQS, provides a credible assessment of air quality throughout the area at the time of designation. Based on this updated modeling, the EPA proposes to conclude that the entire area had no violations of the 1-hr SO2 NAAQS in the period 2013–2015, the three most recent calendar years prior to our designations final action. Additionally, SIPC does not contribute to any nearby nonattainment area. The nearest SO2 nonattainment area is over 160 kilometers away, beyond the distance at which Marion Power Station would likely have impact on SO2 air quality.

Accordingly, we are proposing to change the initial designation of Williamson County, Illinois for the 2010 1-hour SO2 NAAQS. Based on the information available to the EPA, we are proposing to finalize the Williamson County, Illinois area’s initial designation as attainment/unclassifiable for that SO2 NAAQS. If the EPA takes final action to change Williamson County, Illinois’ designation, that final action would relieve Illinois of the obligation under CAA sections 172, 191, and 192 to submit a SIP that demonstrates attainment of the SO2 NAAQS. The EPA invites public input on this proposed action regarding the Williamson County, Illinois area during the 30-day comment period provided in this notice. At this time, the EPA is not taking action or soliciting public comment on the 2010 1-hour SO2 NAAQS designations for geographic areas beyond Williamson County, Illinois. This opportunity for public comment does not affect any rights or obligations of any state, territory, or tribe, or of the EPA, which might otherwise exist pursuant to the CAA section 107(d).

IV. Environmental Justice Considerations

When the EPA establishes a new or revised NAAQS, the CAA requires the EPA to designate all areas of the United States as either nonattainment, attainment, or unclassifiable. This proposal is reconsidering the nonattainment designation for the Williamson County, Illinois area for the 2010 1-hour SO2 NAAQS. Area designations address environmental justice concerns by ensuring that the public is properly informed about the air quality in an area. In locations where air quality does not meet the NAAQS, the CAA requires relevant state authorities to initiate appropriate air quality management actions to ensure that all those residing, working, attending school, or otherwise present in those areas are protected, regardless of minority and economic status.

V. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is exempt from review by the Office of Management and Budget because it is a designation for the Williamson County, Illinois area for the 2010 1-hour SO2 NAAQS.

B. Executive Order 13771: Reducing Regulations and Controlling Regulatory Costs

This action is not an Executive Order 13771 regulatory action because actions such as air quality designations after promulgating a new revised NAAQS are exempt under Executive Order 12866.

C. Paperwork Reduction Act (PRA)

This action does not impose an information collection burden under the PRA. In this action, the EPA is reconsidering the SO2 NAAQS designation for the Williamson County, Illinois area promulgated previously on
government and tribes in developing plans to attain the NAAQS, and this rule does nothing to modify that relationship. Thus, Executive Order 13175 does not apply.

H. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

The EPA interprets Executive Order 13045 as applying to those regulatory actions that concern environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of “covered regulatory action” in section 2–202 of the Executive Order. This action is not subject to Executive Order 13045 because it does not establish an environmental standard intended to mitigate health or safety risks.

I. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution or Use

This action is not subject to Executive Order 13211 because it is not a significant regulatory action under Executive Order 12866.

J. National Technology Transfer and Advancement Act (NTTA)

This rulemaking does not involve technical standards.

K. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

The EPA believes that this action does not have disproportionately high and adverse human health or environmental effects on minority populations, low-income populations, and/or indigenous peoples, as specified in Executive Order 12898 (59 FR 7629, February 16, 1994). When the EPA establishes a new or revised NAAQS, the CAA requires the EPA to designate all areas of the U.S. as either nonattainment, attainment, or unclassifiable. This action is reconsidering the nonattainment designation for the Williamson County, Illinois for the 2010 SO2 NAAQS. Area designations address environmental justice concerns by ensuring that the public is properly informed about the air quality in an area. In locations where air quality does not meet the NAAQS, the CAA requires relevant state authorities to initiate appropriate air quality management actions to ensure that all those residing, working, attending school, or otherwise present in those areas are protected, regardless of minority and economic status. The documentation for this determination is contained in Section IV of this preamble, “Environmental Justice Considerations.”

List of Subjects in 40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.


William L. Wehrum,
Assistant Administrator.

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