



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 50

[EPA-HQ-OAR-2016-0408; FRL-9950-48-OAR]

RIN 2060-AS89

**Technical Correction to the National Ambient Air Quality Standards
for Particulate Matter**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking direct final action to make a technical correction to an equation in an appendix in the National Ambient Air Quality Standards (NAAQS) for Particle Pollution. Equation 2 describes an intermediate step in the calculation of the design value for the annual $PM_{2.5}$ (particles with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers) NAAQS. This action corrects a scrivener's error in one of the equations used to calculate an annual mean $PM_{2.5}$ concentration, to properly account for cases where a site does not have four complete quarters of data and passes one of two substitution tests. This change accurately reflects the intended calculation of the annual mean $PM_{2.5}$ design value and is consistent with the text elsewhere in the appendix.

DATES: This rule is effective on [Insert date 60 days from date of publication in the *Federal Register*] without further notice, unless the EPA receives adverse comment by [Insert date 30 days from date of

publication in the *Federal Register*]. If the EPA receives adverse comment, we will publish a timely withdrawal in the *Federal Register* informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-HQ-OAR-2016-0408, to the *Federal eRulemaking Portal*:

<http://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or withdrawn. 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 (e.g., 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/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: Mr. Brett Gantt, U.S. EPA, Office of Air Quality Planning and Standards, Air Quality Assessment Division, Air Quality Analysis Group (Mail Code: C304-04), Research Triangle Park, NC 27711; telephone number: (919) 541-5274; fax number: (919) 541-3613; email address: gantt.brett@epa.gov.

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. General Information
 - A. Why is the EPA using a direct final rule?
 - B. Does this action apply to me?
 - C. What should I consider as I prepare my comments for the EPA?
- II. This Action
- III. Statutory and Executive Order Reviews
 - A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review
 - B. Paperwork Reduction Act (PRA)
 - C. Regulatory Flexibility Act (RFA)
 - D. Unfunded Mandates Reform Act (UMRA)
 - E. Executive Order 13132: Federalism
 - F. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments
 - G. Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks
 - H. Executive Order 13211: Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use
 - I. National Technology Transfer and Advancement Act
 - J. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations
 - K. Congressional Review Act (CRA)

I. General Information

A. Why is the EPA using a direct final rule?

The EPA is publishing this rule without a prior proposed rule because we view this as a non-controversial action and anticipate no adverse comment. This action corrects a scrivener's error in an intermediate equation in the calculation of the annual PM_{2.5} design value to properly account for cases where a site does not have four complete quarters of data in a specific year and passes the minimum quarterly value substitution test. In the "Proposed Rules" section of today's *Federal Register*, we are publishing a separate proposed rule

to correct this scrivener's error if any adverse comments are received on this direct final rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. For further information about commenting on this rule, see the **ADDRESSES** section of this document.

If EPA receives adverse comment, we will publish a timely withdrawal in the *Federal Register* informing the public that this direct final rule will not take effect. We would address all public comments in any subsequent final rule based on the proposed rule.

B. Does this action apply to me?

This action applies to you if you are calculating the annual PM_{2.5} design value for a site which does not have four complete quarters of data for a specific year and passes the minimum quarterly value substitution test.

C. What should I consider as I prepare my comments for the EPA?

1) *Submitting CBI*. Do not submit this information to EPA through *www.regulations.gov* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD-ROM that you mail to the EPA, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket.

Information so marked will not be disclosed except in accordance with procedures set forth in 40 Code of Federal Regulations (CFR) part 2.

2) *Tips for Preparing Your Comments.* When submitting comments, remember to:

- Identify the rulemaking by docket number and other identifying information (subject heading, *Federal Register* date and page number).
- Follow directions - The agency may ask you to respond to specific questions or organize comments by referencing a CFR part or section number.
- Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
- Describe any assumptions and provide any technical information and/or data that you used.
- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
- Provide specific examples to illustrate your concerns, and suggest alternatives.
- Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
- Make sure to submit your comments by the comment period deadline identified.

II. This Action

On December 14, 2012, the EPA revised the NAAQS for Particle Pollution (78 FR 3086). Appendix N to part 50 of this document described the data handling conventions and computations necessary for determining when the NAAQS for PM_{2.5} are met. Section 4.4 described the annual PM_{2.5} design value calculations, with equations 1, 2, and 3 used to calculate the quarterly, annual, and 3-year average concentrations. Equation 2 erroneously described the annual mean as the average of the four quarterly values despite the availability of substitution tests for cases when quarterly values do not meet the completeness requirements in section 4.1.

Specifically, the minimum quarterly value substitution test described in section 4.1(c)(i) allows for a valid annual PM_{2.5} design value to be calculated when a test design value, having deficient quarters substituted with quarter-specific low values, is found to be greater than the level of the standard. If the minimum quarterly value substitution test is passed, the annual PM_{2.5} design value is calculated from annual means of the non-deficient quarterly values, which can range in number from one to four for a specific year.

As currently written, equation 2 is not appropriate for use during a minimum quarterly value substitution test and does not accurately reflect the intended calculation of the annual mean PM_{2.5} concentration in these cases.¹ Therefore, this action generalizes equation 2 to account for cases that pass the minimum quarterly value

¹ If read literally with the scrivener's error, it would be erroneous to use Equation 2 to calculate the annual PM_{2.5} NAAQS for any year with a deficient quarter of data because the equation instructs the user to sum all *four* quarters when at least one of those quarters contains missing data.

substitution test, yet do not have four non-deficient quarterly values in each of the years in the 3-year design value period. This technical correction to equation 2 is currently used in the calculation of the PM_{2.5} annual design value, is consistent with the text of section 4.1 within appendix N to part 50, and does not affect the calculation of annual mean PM_{2.5} concentrations when four complete quarters of data are available.

III. 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 not a significant regulatory action and was, therefore, not submitted to the Office of Management and Budget (OMB) for review.

B. Paperwork Reduction Act (PRA)

This action does not impose an information collection burden under the PRA. This action generalizes the calculation of the annual PM_{2.5} NAAQS design values and does not impose additional regulatory requirements on organizations monitoring air quality.

C. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. This action will not impose any requirements on small entities. This action corrects the calculation of annual mean PM_{2.5} concentrations and does not impose additional regulatory requirements on sources.

D. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate of \$100 million or more as described in UMRA, 2 U.S.C. 1531-1538, and does not significantly or uniquely affect small governments. This action imposes no enforceable duty on any state, local or tribal governments, or the private sector.

E. Executive Order 13132: Federalism

This action does not have federalism implications. It will 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.

F. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments

This action does not have tribal implications, as specified in Executive Order 13175. This regulatory action is a technical correction to a previously promulgated regulatory action and does not have any impact on human health or the environment. Thus, Executive Order 13175 does not apply to this action.

G. Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks

The EPA interprets Executive Order 13045 as applying only 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 concern an environmental health risk or safety risk.

H. Executive Order 13211: Actions Concerning Regulations 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.

I. National Technology Transfer and Advancement Act

This rulemaking does not involve technical standards.

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

The EPA believes that this action is not subject to Executive Order 12898 (59 FR 7629, February 16, 1994) because it does not establish an environmental health or safety standard. This regulatory action is a technical correction to a previously promulgated regulatory action and does not have any impact on human health or the environment.

K. Congressional Review Act

This action is subject to the CRA, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 50

Air pollution control, Carbon monoxide, Lead, Nitrogen dioxide,
Ozone, Particulate matter, Sulfur oxides.

Dated: August 3, 2016.

Gina McCarthy,
Administrator.

For the reasons stated in the preamble, title 40, chapter I of the Code of Federal Regulations is amended as follows:

PART 50—NATIONAL PRIMARY AND SECONDARY AMBIENT AIR QUALITY STANDARDS

1. The authority citation for Part 50 continues to read as follows:

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

2. In appendix N to part 50, in section 4.4, Equation 2 is revised to read as follows:

Appendix N to Part 50- Interpretation of the National Ambient Air Quality Standards for PM_{2.5}

* * * * *

4.4 Equations for the Annual PM_{2.5} NAAQS

* * * * *

(b) * * *

Equation 2

$$\bar{X}_y = \frac{1}{n_{Q,y}} \sum_{q=1}^{n_{Q,y}} \bar{X}_{q,y}$$

Where:

\bar{X}_y = the annual mean concentration for year y (y = 1, 2, or 3);

$n_{Q,y}$ = the number of complete quarters Q in year y; and

$\bar{X}_{q,y}$ = the mean for quarter q of year y (result of equation 1).

* * * * *