



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R10-OAR-2017-0170; FRL-9988-17-Region 10]

Air Plan Approval; ID, West Silver Valley PM_{2.5} Clean Data Determination

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is finalizing a determination that the West Silver Valley, Idaho nonattainment area has clean data for the 2012 annual fine particulate matter (PM_{2.5}) National Ambient Air Quality Standard (NAAQS). This clean data determination (CDD) is based upon quality-assured, quality-controlled, and certified ambient air monitoring data showing the area has attained the 2012 PM_{2.5} NAAQS based on the 2015-2017 data available in the EPA's Air Quality System (AQS) database. The EPA also is taking final agency action on the September 2017 wildfire exceptional event at the Pinehurst monitoring station as having affected PM_{2.5} and PM₁₀ values. Based on this clean data determination, the EPA determines that the obligation for Idaho to make submissions to meet certain Clean Air Act (CAA or the Act) requirements related to attainment of the NAAQS for this area is suspended for as long as the area continues to attain the 2012 annual PM_{2.5} NAAQS. Additionally, the sanctions and Federal Implementation Plan (FIP) clocks triggered by the March 26, 2018 Finding of Failure to Submit action will be suspended. No adverse comments were received on this action.

DATES: This action is effective on **[insert date 30 days after date of publication in the**

Federal Register].

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA-R10-OAR-2017-0170. 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 or other information the disclosure of which 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.

FOR FURTHER INFORMATION CONTACT: Justin Spenillo at (206) 553-6125, or spenillo.justin@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document whenever “we,” “us,” or “our” is used, it is intended to refer to the EPA.

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I. Background

On December 14, 2012, the Environmental Protection Agency (EPA) revised the level of the primary annual PM_{2.5} standard, lowering the level from 15.0 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$) to 12.0 $\mu\text{g}/\text{m}^3$. Effective April 15, 2015, the EPA made designation determinations for

the 2012 annual PM_{2.5} NAAQS.¹ In that action, EPA designated the West Silver Valley area in Shoshone County, Idaho (WSV NAA) as moderate nonattainment for the 2012 annual PM_{2.5} NAAQS. *See* 40 CFR 81.313.

On March 26, 2018, the EPA issued a finding of failure to submit under section 110(k) of the CAA finding that several states, including Idaho, failed to submit specific moderate area SIP elements for the 2012 annual PM_{2.5} NAAQS required under subpart 4 of part D of Title I of the CAA.² In particular, Idaho failed to submit the following specific moderate area SIP elements for the WSV NAA: an attainment demonstration; control strategies, including reasonably available control measures (“RACM”) and reasonably available control technologies (“RACT”); a reasonable further progress (RFP) plan; quantitative milestones; and contingency measures. This finding triggered the sanctions clock under Section 179 of the CAA, as well as an obligation under Section 110(c) of the CAA for EPA to promulgate a FIP no later than 2 years from the effective date of the finding.

On October 22, 2018 (83 FR 53201), the EPA proposed to determine, based on the most recent 3 years (2015-2017) of valid data, that the WSV NAA has attained the 2012 PM_{2.5} annual NAAQS. The EPA also proposed to take final agency action on the September 2017 wildfire exceptional event at the Pinehurst monitoring station as having affected PM_{2.5} and PM₁₀ values on September 4 through September 8, 2017 as described in Table 1.

Table 1. 24-hr PM_{2.5} and PM₁₀ Values at the Pinehurst monitoring station that meet the EPA Exceptional Event Criteria

¹ 80 FR 2206.

² 83 FR 14759.

Date	24-hr PM _{2.5} Concentration (µg/m ³)	24-hr PM ₁₀ Concentration (µg/m ³)
	16-079-0017 POC1	16-079-0017 POC3
9/4/2017	144.9	-----
9/5/2017	222.2	-----
9/6/2017	147.1	169.6
9/7/2017	123.8	149.8
9/8/2017	116.7	143.7

Based on the clean data determination (CDD), the EPA also proposed to determine that the obligation to submit the attainment planning elements for the PM_{2.5} NAAQS are not applicable so long as the area continues to attain the 2012 annual PM_{2.5} NAAQS. Additional detail can be found in the October 22, 2018, proposed action (83 FR 53201). Finally, the action proposed to suspend the sanctions and FIP clocks triggered by the March 26, 2018, Finding of Failure to Submit action.

II. Response to Comments

The comment period for the proposed action closed on November 21, 2018. The EPA received seven supportive comments regarding this action. The EPA received no adverse comments. All comments can be found in the docket for this action.

III. Final Action

The EPA is finalizing this action as proposed. Pursuant to 40 CFR 51.1015(a), the EPA determines that based on 3-years of certified, valid monitoring data between 2015 and 2017, the WSV NAA has attained the 2012 annual PM_{2.5} NAAQS. Pursuant to 50 CFR 50.14, the EPA is also taking final action excluding the 2017 24-hr PM_{2.5} and PM₁₀ values listed in Table 1, above,

at the Pinehurst monitoring station because those NAAQS exceedances were caused by a wildfire exceptional event. Pursuant to 40 CFR 51.1015(a), and based upon our determination that the WSV NAA has attained the standard, the EPA determines that the obligation to submit any attainment-related SIP revisions arising from classification of the WSV NAA as a moderate nonattainment area under subpart 4 of part D, of title I of the Act for the 2012 annual PM_{2.5} NAAQS is not applicable for so long as the area continues to attain the 2012 annual PM_{2.5} NAAQS. In particular, the obligation for Idaho to submit attainment demonstrations, projected emissions inventories, RACM (including RACT), RFP plans, motor vehicle emissions budgets, quantitative milestones, and contingency measures for the WSV NAA are suspended until such time as: (1) the area is redesignated to attainment, after which such requirements are permanently discharged; or (2) the EPA determines that the area has re-violated the PM_{2.5} NAAQS, at which time the state shall submit such attainment plan elements for the Moderate nonattainment area by a future date to be determined by the EPA and announced through publication in the Federal Register at the time the EPA determines the area is violating the PM_{2.5} NAAQS.

Although the obligation has been suspended, this action does not preclude Idaho from submitting, nor the EPA from acting on the suspended attainment plan elements. As a result of this final action, the sanctions and FIP clocks triggered by the EPA's March 26, 2018, Finding of Failure to Submit are suspended. *See* 83 FR 14759.

Today's final action does not constitute a redesignation of the WSV NAA to attainment for the 2012 annual PM_{2.5} NAAQS under CAA section 107(d)(3) because we have not yet approved a maintenance plan for WSV NAA 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 remains Moderate nonattainment for this area until such time as the EPA determines that Idaho has met the CAA requirements for redesignation to attainment for the WSV NAA.

IV. Statutory and Executive Orders Review

This action finalizes a determination of attainment based on air quality and suspends certain federal requirements, and thus will not impose additional requirements beyond those imposed by state law. For this reason, this final 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 expected to be 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 (Public Law 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 the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under 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).

The Congressional Review Act, 5 U.S.C. section 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. The 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 **[insert date 60 days after date of publication in the Federal Register]**. 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, Intergovernmental relations, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

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

Dated: December 4, 2018.

Michelle L. Pirzadeh,
Acting Regional Administrator,
Region 10.

[FR Doc. 2018-27607 Filed: 12/20/2018 8:45 am; Publication Date: 12/21/2018]