6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 58

[EPA-HQ-OAR-2019-0137; FRL-10003-87-OAR]

RIN 2060-AU38

Extension of Start Date for Revised Photochemical Assessment Monitoring Stations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA is delaying the start date for the revised Photochemical Assessment Monitoring Stations (PAMS) monitoring site network established in EPA regulations. This final action extends the start date from June 1, 2019, to June 1, 2021. The revision gives states two additional years to acquire the necessary equipment and expertise needed to successfully make the required PAMS measurements by the start of the 2021 PAMS season.

DATES: This final rule 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-HQ-OAR-2019-0137. All documents in the docket are listed on the *http://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 statue. 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 either electronically through *http://www.regulations.gov*, or in hard copy at the EPA Docket Center, EPA WJC West Building, Room Number 3334, 1301 Constitution Ave., NW, Washington, DC.

The Public Reading Room hours of operation are 8:30 a.m. to 4:30 p.m. Eastern Standard Time (EST), Monday through Friday. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Docket Center is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: For questions about this final action, contact Kevin Cavender, Air Quality Analysis Division (C304-06), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541-2364; fax number: (919) 541-1903; and email address: *cavender.kevin@epa.gov*.

SUPPLEMENTARY INFORMATION:

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I. General Information

A. Does this action apply to me?

Table 1 of this preamble identifies the entities potentially affected by this action. This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that EPA is now aware could potentially be regulated by this action. Other types of entities not listed in the table could also be regulated. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the FOR FURTHER INFORMATION CONTACT section.

Table 1. Source Categories Affected by This Action

Source Category	NAICS[1] Code	Examples of Affected Sources
State, local, and tribal government agencies	924119	Administration of air and water resource and solid waste management programs

[1] North American Industry Classification System.

B. Where can I get a copy of this document and other related information?

In addition to being available in the docket, an electronic copy of this final action, along with key technical documents, is available on the Internet at *https://www.epa.gov/amtic/monitoring-regulations.*

C. Judicial Review

Under Clean Air Act (CAA) section 307(b)(1), judicial review of this final action is available only by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit by [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. Under CAA section 307(b)(2), the requirements established

by this final rule may not be challenged separately in any civil or criminal proceedings brought by the EPA to enforce the requirements.

II. Background

The EPA PAMS program was promulgated in the early 1990s to meet the requirements of Section 182(c)(1) of the Clean Air Act (CAA) and in response to the recommendations of the National Academy of Sciences (NAS) report required by CAA Section 185B.[1] The regulations establishing the requirements of the PAMS program are in 40 CFR part 58, appendix D. Significant revisions to these requirements were made as part of the 2015 Ozone National Ambient Air Quality Standards (NAAQS) review. *See* 80 FR 65292, 65420-30 (Oct. 26, 2015). The revised PAMS requirements call for ozone precursor measurements to be made during the 3-month PAMS season (June, July, and August) at existing NCore sites[2] in core-based statistical areas (CBSA) with a population of one million or more (a multi-pollutant monitoring network also required in 40 CFR part 58). These sites are referred to as "required PAMS sites." The main objective of the required PAMS sites is to develop a database of ozone precursors and meteorological measurements to support ozone model development and track the trends of important ozone precursor concentrations. In addition to the required PAMS sites, the revised PAMS requirements also call for each state with nonattainment areas classified as Moderate (or

[1] Section 182(c)(1) of the Clean Air Act (CAA), 42 U.S.C. 7511a, requires the Administrator to promulgate rules for enhanced monitoring of ozone, oxides of nitrogen and volatile organic compounds for areas classified as serious (or above) in order to obtain more comprehensive and representative data on ozone air pollution. CAA Section 185B required the EPA to work with the National Academy of Sciences to conduct a study on the role of ozone precursors in tropospheric ozone formation and control. CAA sections 110(a)(2)(B), 114 and 319 also address monitoring requirements and authorize the Administrator to require monitoring and to promulgate regulations defining monitoring obligations. In addition, section 301 gives the Administrator authority to prescribe such regulations as are necessary to allow him to carry out his functions under the CAA.

[2] NCore sites are National Core multi-pollutant monitoring stations. *See* 40 CFR 58.1.

above) for any ozone NAAQS and states in the Ozone Transport Region to develop and implement an Enhanced Monitoring Plan (EMP). The objective of EMPs is to better understand ozone formation in specific areas through enhanced ozone and ozone precursor monitoring activities.

The revised PAMS requirements reduced the number of required PAMS sites (from 75 to 43) while improving spatial distribution. Of the 43 required PAMS sites, 16 were existing PAMS sites and 27 are new PAMS sites. While the new PAMS requirements leverage the existing NCore network and infrastructure providing significant long-term cost savings, many states (including those with existing PAMS sites due to the age of the existing equipment) need to install new equipment to comply with the revised PAMS requirements (*e.g.*, automated gas chromatographs (auto-GCs) to measure hourly volatile organic compounds (VOCs), true NO_2 analyzers, ceilometers (to measure mixing height), rain gauges, solar radiation sensors, and support equipment).

In revising the PAMS requirements, the EPA "recognize[d] that the changes to the PAMS requirements will require resources and a reasonable timeline in order to be successfully implemented." 80 FR 65428. "The PAMS program," the EPA explained, "is funded, in part, as part of the EPA's section 105 grants."[3] *Id.* At the time of the 2015 PAMS revisions, "EPA believe[d] that the current national funding level of the PAMS program [was] sufficient to support these final changes ...." *Id.* Additionally, the EPA explained that monitoring agencies would need time "to make capital investments (primarily for the installation of auto-GCs, NO_2 monitors, and ceilometers), prepare appropriate [Quality Assurance] documents, and develop the expertise needed to successfully collect PAMS measurements via training or otherwise." *Id.*

[3] Section 105 grants are provided through the State and Tribal Air Grant (STAG) funds.

Prior to this final action, the revised PAMS requirements required states to start making PAMS measurements by June 1, 2019. To assist states in acquiring the necessary equipment, the EPA has been working on national contracts[4] to provide much of the needed equipment for making PAMS measurements – specifically contracts for auto-GCs, ceilometers, and true NO_2 analyzers. The EPA informed the states of its intent to make the national contracts available to them for the purchase of the listed PAMS equipment during numerous meetings, conferences, and workgroup calls (See docket items EPA-HQ-2019-0137-0001, EPA-HQ-2019-0137-0001, and EPA-HQ-2019-0137-0001 for examples of these communications). Due to budget constraints[5] and delays in EPA's contracting process, many of the states relying on the national contracts for equipment did not have all the necessary equipment in time for the start date. However, the EPA has obtained some of the necessary PAMS equipment, which has been delivered to participating states. At the time of this final action, roughly two thirds of the sites have received and are operating auto-GCs but only one third of the sites will have the ceilometer and true NO_2 analyzers in 2019. Sites will need all of the equipment, however, to satisfy all of the PAMS requirements. The EPA is currently working on a national contract to purchase the

[4] The EPA assists states by negotiating and awarding national contracts for ambient air sampling and analysis services and large-scale monitoring equipment and supplies for efficiency and consistency in the monitoring networks. National contracts provide many benefits to EPA and the states, including simplified acquisition, national consistency, and sometimes better pricing options. For large-scale equipment contracts, the EPA coordinates closely with state monitoring agencies to determine interest before pursuing actual contracting vehicles. For those states planning to use the national contracts for PAMS equipment, the EPA will purchase the equipment using STAG funds on behalf of the state and have the equipment delivered directly to the state.

[5] The EPA is using STAG funds to purchase equipment on behalf of participating states under the national contracts. Approximately $8 million dollars was estimated to be needed to purchase the equipment. To minimize disruption to existing initiatives being funded by STAG, the EPA set aside $2 million in STAG funds per year over Fiscal Years 2017, 2018, 2019, and 2020 to fund the purchases of the new equipment on a rolling basis (*i.e.*, when a contract is established and equipment can be purchased).

remaining auto-GCs, but the remaining auto-GCs were not available by the June 1, 2019 start date. Moreover, once the remaining auto-GCs are delivered, states will need adequate time to install the new devices and develop the expertise to successfully collect PAMS measurements. The EPA is also working on a national contract to purchase the true NO_2 analyzers and ceilometers. That contract will not be funded until 2020 and the states will not receive that equipment until the summer of 2020.

III. What actions did we propose?

In light of the delays in acquiring necessary equipment and the need for a reasonable training period to become proficient with new equipment, the EPA proposed (84 FR 25221) to extend the start date for required PAMS monitoring until the beginning of the PAMS season in 2021 (*i.e.*, June 1, 2021). The delays in the national contracts do not impact the state driven EMPs, and as such, we did not propose any change to the current EMP date.

In the proposal, the EPA also took comment on whether the start date should be extended only for sites that have not received the necessary equipment and considered two alternative options. Under the first alternative, the EPA would require each remaining site to begin measurements once *all* of the necessary equipment has been delivered (and taking into account a reasonable training period), rather than having a uniform start date for all sites. Under the second alternative, the EPA would require sites to begin measurements as the necessary equipment has been delivered (and taking into account a reasonable training period).

IV. What comments did we receive?

The EPA received seven comments on the proposed extension. Six comments were from state or local monitoring agencies affected by the PAMS requirements. The seventh comment was from a trade organization for state and local monitoring agencies. All commenters supported

extending the PAMS start date to June 1, 2021, and no comments were received in support of the alternative options the EPA requested comment on. One commenter stated that "the start date for the PAMS network was unattainable because of a lack of funding for equipment and the national contract equipment delays" and urged the EPA to "maintain the uniform start-up extension date of June 1, 2021 for all PAMS sites." Another commenter stated that "due to the lack of critical funding, equipment procurement, and training, the two-year timeline extension proposed in this rule makes sense and should be finalized uniformly nationwide." Another commenter stated, "a blanket extension is the most straightforward way to address the problem and would provide the most certainty for state and local agencies."

V. What action are we taking in this final rule?

For the reasons discussed in this preamble and in consideration of the comments received, the EPA is extending the PAMS start date by two years to June 1, 2021, as proposed. Many of the states relying on the EPA's assistance in acquiring equipment for the required PAMS sites did not have all the necessary equipment by June 1, 2019. In addition, many states are new to making PAMS measurements and will need time to become proficient with the equipment after it has been delivered. For these reasons, EPA has concluded that it is appropriate to extend the start date for required PAMS monitoring for all sites until the start of the PAMS season following the delivery of the remaining PAMS equipment. Based on current expectations, the last equipment will be delivered in the summer of 2020. Accordingly, the EPA is extending the start date for required PAMS monitoring to June 1, 2021.

This extension will provide state and local monitoring agencies the necessary time to acquire, install, and become proficient with the necessary equipment to make PAMS measurements. The EPA agrees with the commenters that a blanket two-year extension provides

more clarity and certainty for the monitoring agencies and will reduce confusion as compared to the options on which EPA sought comment. The agencies cannot be certain when they will receive the necessary equipment and it would be difficult for agencies to plan for and coordinate the start of sampling with staggered start dates that are not yet known. EPA thus decided to finalize the blanket two-year extension as proposed instead of the alternatives that would have created staggered start dates based on when equipment is delivered.

VI. What are the impacts of the actions taken in this final rule?

As stated above, the main objective of the PAMS program is to develop a database of ozone precursors and meteorological measurements to support ozone model development and track the trends of important ozone precursor concentrations. The EPA and other scientists use the data collected from the PAMS network to develop, evaluate, and improve ozone models. The delay in PAMS implementation will reduce the amount of precursor and meteorological data available from the PAMS season in 2019 and 2020. Nevertheless, sites which have already received the necessary equipment will likely begin making PAMS measurements as soon as possible, and as such, about two thirds of the required PAMS sites may begin making speciated VOC measurements in 2019, with the remaining third beginning to make speciated VOC measurements in 2020. One-third of the sites will have the ceilometer and true NO_2 analyzers in 2019, with the remainder receiving the equipment in fiscal year 2020. In addition, many of the required PAMS measurements are already being made at these sites as part of the NCore network, including ozone, total reactive nitrogen (NOy), and several meteorological measurements. Accordingly, while not a complete data set, PAMS data users will have much of the data necessary to develop, evaluate, and improve ozone models regardless of the delay in the start date for required PAMS monitoring.

VII. Statutory and Executive Order Reviews

Additional information about these statutes and Executive orders can be found at *https://www.epa.gov/laws-regulations/laws-and-executive-orders*.

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. Executive Order 13771: Reducing Regulation and Controlling Regulatory Costs

This action is considered an Executive Order 13771 deregulatory action. This final rule provides meaningful burden reduction by giving states 2 additional years to begin PAMS monitoring. A 2-year delay in the required PAMS site start date will result in cost savings for the network due to a savings in operating costs for those measurements not being made during the delay.

C. Paperwork Reduction Act (PRA)

This action does not impose any new information collection burden under the PRA. OMB has previously approved the information collection activities contained in the existing regulations and has assigned OMB control number 2060-0084. The burden associated with conducting and reporting PAMS monitoring data has been fully incorporated into the Ambient Air Quality Surveillance Information Collection Request.

D. 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. In making this determination, the impact of concern is any significant adverse economic impact on small entities. An agency may certify that a rule will

not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, has no net burden or otherwise has a positive economic effect on the small entities subject to the rule. This final action would reduce burden on the affected state and local monitoring agencies by delaying implementation and the associated costs of PAMS monitoring by 2 years. We have, therefore, concluded that this action will relieve regulatory burden for all directly regulated small entities.

E. Unfunded Mandates Reform Act (UMRA)

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

F. 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.

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

This action does not have tribal implications, as specified in Executive Order 13175. This action only applies to state and local monitoring agencies operating NCore monitoring sites in Core Based Statistical Areas of 1,000,000 people or more. No tribal governments will be subject to the PAMS monitoring requirements. Thus, Executive Order 13175 does not apply to this action.

H. 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.

I. 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.

J. National Technology Transfer and Advancement Act (NTTAA)

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 is not subject to Executive Order 12898 (59 FR 7629, February 16, 1994) because it does not establish an environmental health or safety standard.

L. Congressional Review Act (CRA)

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 58

Ambient air monitoring, Ozone, Photochemical assessment monitoring stations, Precursor monitoring.

Dated: December 20, 2019.

Andrew R. Wheeler,
Administrator.

For the reasons stated in the preamble, the Environmental Protection Agency is amending part 58 of title 40, chapter I, of the Code of Federal Regulations as follows:

PART 58--AMBIENT AIR QUALITY SURVEILLANCE

1. The authority citation for part 58 continues to read as follows:

Authority: 42 U.S.C. 7403, 7405, 7410, 7414, 7601, 7611, 7614, and 7619.

2. Section 58.13 is amended by revising paragraph (h) to read as follows:

§58.13 Monitoring network completion.

* * * * *

(h) The Photochemical Assessment Monitoring sites required under appendix D of this part, section 5(a), must be physically established and operating under all of the requirements of this part, including the requirements of appendix A, C, D, and E of this part, no later than June 1, 2021.

[FR Doc. 2019-28219 Filed: 1/7/2020 8:45 am; Publication Date: 1/8/2020]