



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R03-OAR-2017-0479; FRL-9975-00-Region 3]

**Air Quality Plans; Pennsylvania;
Lebanon County 2012 Fine Particulate Matter Standard Determination of Attainment**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is making a final determination that the Lebanon County, Pennsylvania nonattainment area (the Lebanon County Area) has attained the 2012 annual fine particulate matter (PM_{2.5}) national ambient air quality standards (NAAQS). This determination of attainment, also known as a clean data determination, is based on quality assured and certified ambient air quality data for the 2014-2016 monitoring period. The effect of this determination of attainment suspends certain planning requirements for the area, including the requirement to submit an attainment demonstration and associated reasonably available control measures (RACM), a reasonable further progress (RFP) plan, and contingency measures. These requirements would be suspended for as long as the area continues to meet the 2012 annual PM_{2.5} NAAQS. This action is not a redesignation to attainment for the area. This action is being taken under the Clean Air Act (CAA).

DATES: This final rule is effective on **[insert date 30 days after date of publication in the Federal Register]**.

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA-

R03-OAR-2017-0479. All documents in the docket are listed on the <http://www.regulations.gov> website. 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 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 <http://www.regulations.gov>, or please contact the person identified in the “For Further Information Contact” section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Gavin Huang, (215) 814-2042, or by e-mail at huang.gavin@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On November 2, 2017 (82 FR 50851), EPA published a notice of proposed rulemaking (NPR) for the Lebanon County Area. In the NPR, EPA proposed to determine that the Lebanon County Area attained the 2012 annual PM_{2.5} NAAQS.

Under EPA’s longstanding Clean Data Policy,¹ which was codified in EPA’s Clean Air Fine Particulate Implementation Rule (72 FR 20586, April 25, 2007), EPA may issue a determination of attainment after notice and comment rulemaking determining that a specific area is attaining the relevant standard. *See* 40 CFR 51.1004. The effect of a clean data determination is to suspend the requirement for the area to submit an attainment demonstration, RACM, RFP plan, contingency measures, and any other planning State Implementation Plans (SIPs) related to attainment for as long as the area continues to attain the standard. In EPA’s Fine Particulate

¹ “Clean Data Policy for the Fine Particle National Ambient Air Quality Standards,” Memorandum from Stephen D. Page, December 14, 2004.

Matter National Ambient Air Quality Standards: State Implementation Plan Requirements final rule (81 FR 58010, August 24, 2016), EPA reaffirmed the Clean Data Policy at 40 CFR 51.1015.

II. EPA's Evaluation

Under EPA regulations at 40 CFR part 50, section 50.18 and appendix N, the annual primary PM_{2.5} standard is met when the 3-year average of PM_{2.5} annual mean mass concentrations for each eligible monitoring site is less than or equal to 12.0 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$). Three years of valid annual means are required to produce a valid annual PM_{2.5} NAAQS design value.

Consistent with the requirements of 40 CFR part 50, section 50.18 and appendix N, EPA determined the Lebanon County Area has attained the 2012 annual PM_{2.5} NAAQS. The certified annual design value for 2014-2016 is 11.2 $\mu\text{g}/\text{m}^3$, which is below the 2012 annual primary PM_{2.5} standard of 12.0 $\mu\text{g}/\text{m}^3$.

The specific requirements of this determination of attainment and the rationale for EPA's proposed action, including how the annual design value for 2014-2016 was calculated, are explained in the NPR and will not be restated here. EPA received comments that are addressed in Section III of this rulemaking action.

III. Public Comments and EPA's Responses

EPA received adverse comments from one commenter, the Clean Air Council (hereinafter referred to as the "Commenter"). The Commenter expressed concern about EPA's calculations performed for this determination of attainment. The Commenter states, "EPA should perform its calculations again and provide explanations for its conclusions, which were not substantiated by

the background documents in the rulemaking docket.” EPA provided its explanations and support for the determination of attainment in the NPR and explained the certified annual design value for 2014-2016 is $11.2 \mu\text{g}/\text{m}^3$, which is below the 2012 annual primary $\text{PM}_{2.5}$ standard of $12.0 \mu\text{g}/\text{m}^3$. The Commenter’s specific concerns are summarized and addressed in this section.

Comment 1: For the 2015 annual mean, the Commenter confirmed the annual mean calculation from EPA but had comments regarding data from the second quarter of 2015. The Commenter noted there was only monitored data for 64 of the 91 days in the quarter which led EPA to conduct a “data completeness test.” The Commenter states that “EPA substituted 30.5 micrograms per cubic meter for each of the 27 days of missing data, based on the premise that this figure was the highest daily average in the second quarters of 2014, 2015, and 2016” and stated that this figure was the daily average for June 11, 2015, during the second quarter of 2015. The Commenter states that EPA does not acknowledge that there was actually a *higher* daily value of $34 \mu\text{g}/\text{m}^3$ on May 11, 2016, during the second quarter of 2016 based on data Commenter obtained from an EPA website.² The Commenter states that it is possible that EPA excluded this figure under the rationale that there was an “extraordinary event.” The Commenter also notes there was additional monitored data available related to Parameter Occurrence Code 3 (POC 3) from the EPA website for the second quarter of 2015 which EPA did not consider in supporting the determination of attainment. The Commenter notes the design value would still be lower than the NAAQS but notes EPA should provide a legal and technical explanation and should perform the calculations again based on the correct data.

Response 1: In accordance with 40 CFR part 50, appendix N, section 3.0(d)(1), the Pennsylvania Department of Environmental Protection (PADEP) installed a $\text{PM}_{2.5}$ monitor with

² <https://www.epa.gov/outdoor-air-quality-data/download-daily-data>.

federal reference method (FRM) code 145, parameter occurrence code 1 (POC 1) at the Lebanon County site (Site ID 42-075-0100) and designated this monitor as the primary monitor in January 2016.³ PADEP also has a collocated monitor with federal equivalent method (FEM) code 170, parameter occurrence code 3 (POC 3). 40 CFR part 50, appendix N, section 3.0(d)(1), states: “The default dataset for PM_{2.5} mass concentrations for a site shall consist of the measured concentrations recorded from the designated primary monitor(s). All daily values produced by the primary monitor are considered part of the site record; this includes all creditable samples and all extra samples.” Additionally 40 CFR part 58, appendix A, section 3.2.3 states: “For each pair of collocated monitors, designate one sampler as the primary monitor whose concentrations will be used to report air quality for the site, and designate the other as the quality control monitor. There can be only one primary monitor at a monitoring site for a given time period.” As previously mentioned on January 1, 2016, PADEP designated POC 1 as the primary monitor. Therefore, after January 1, 2016, on days where the primary monitor POC 1 produces a daily value, it is considered part of the site record and not the data from collocated monitor POC 3.

Additionally, 40 CFR part 50, appendix N, section 3.0(d)(2), states that, “Data for the primary monitors shall be augmented as much as possible with data from collocated monitors. *If a valid daily value is not produced by the primary monitor for a particular day (scheduled or otherwise), but a value is available from a collocated monitor, then that collocated value shall be considered part of the combined site data record* (emphasis added). If more than one collocated daily value is available, the average of those valid collocated values shall be used as the daily value. The data record resulting from this procedure is referred to as the ‘combined site

³ See Docket ID EPA-R03-OAR-2017-0479-0016. Page 2 of the “Air Quality System (AQS) Monitor Description Report,” notes POC 1’s official start date as January 1, 2016. Therefore, EPA will be referencing the January 1, 2016 date. PADEP’s 2016 Annual Ambient Air Monitoring Network Plan notes the start date as January 7, 2016.

data record.””

Pursuant to 40 CFR part 50, appendix N, section 3.0(d)(2), the data from collocated monitor POC 3 is only considered as part of the combined site data record (to be used in determining design value for the 2012 annual PM_{2.5} NAAQS) when there is no valid daily value from the primary monitor POC 1. For the data substitution test⁴ performed by EPA in the second quarter of 2015 due to missing data values, EPA used the highest daily site record for the second quarter substitution value. 40 CFR part 50, appendix N, section 1(c) defines the value used for the maximum data substitution test and provides “[t]he *maximum quarterly value data substitution test* substitutes actual ‘high’ reported daily PM_{2.5} values from the same site (specifically, the highest reported non-excluded quarterly value(s) (year non-specific) contained in the combined site record for the evaluated 3-year period) for missing daily values.” The daily site record included data from POC 1 and POC 3 depending on which monitor was primary and which monitor had valid data between April 1 and June 30 in 2014, 2015, and 2016, i.e. the second quarters of 2014, 2015, and 2016. EPA determined that the highest daily site record for the second quarter substitution value was 30.5 µg/m³ recorded on June 11, 2015 from POC 1. The higher daily value of 34 µg/m³ was recorded on May 11, 2016 by the collocated monitor, POC 3. However, because POC 1 produced a valid daily value of 29.1 µg/m³ on this same day, May 11, 2016, the data value from POC 3 was not used in the data substitution test as the highest daily

⁴ EPA notes that “data substitution test” is defined in 40 CFR part 50, appendix N as “diagnostic evaluations performed on an annual PM_{2.5} NAAQS design value (DV) or a 24-hour PM_{2.5} NAAQS DV to determine if those metrics, which are judged to be based on incomplete data in accordance with 4.1(b) or 4.2(b) of this appendix shall nevertheless be deemed valid for NAAQS comparisons, or alternatively, shall still be considered incomplete and not valid for NAAQS comparisons. There are two data substitution tests, the ‘minimum quarterly value’ test and the ‘maximum quarterly value’ test. *Design values (DVs)* are the 3-year average NAAQS metrics that are compared to the NAAQS levels to determine when a monitoring site meets or does not meet the NAAQS, calculated as shown in section 4.” In the NPR, EPA discussed its application of the data substitution test using the maximum quarterly value test. Appendix N provides that the “*maximum quarterly value data substitution test*” substitutes actual “high” reported daily PM_{2.5} values from the same site (specifically, the highest reported non-excluded quarterly value(s) (year non-specific) contained in the combined site record for the evaluated 3-year period) for missing daily values.

site record and therefore the daily value of $30.5 \mu\text{g}/\text{m}^3$ recorded on June 11, 2015 was the highest daily site record for the second quarter between 2014-2016. EPA's use of $30.5 \mu\text{g}/\text{m}^3$ in the data substitution test for 2015 was therefore correct and in accordance with 40 CFR part 50 appendix N, and no calculations need to be redone for the 2015 annual mean. EPA notes that we did not exclude this data (the $34 \mu\text{g}/\text{m}^3$ recorded on May 11, 2016 by the collocated monitor, POC 3) in our data substitution analysis due to any "exceptional event," as we did not use this data because data from the primary monitor POC 1 was available on that same day. *See* 40 CFR part 50, appendix N, section 3.0(d)(2).

Comment 2: For the 2016 annual mean, the Commenter states that it is unclear which monitor is intended to be the primary monitor. The Commenter claims that the 2016 annual mean should be $12.22 \mu\text{g}/\text{m}^3$ instead of EPA's calculated mean of $9.72 \mu\text{g}/\text{m}^3$ and states it was unclear how EPA calculated its annual mean for 2016. Therefore, based on the Commenter's calculations, the annual design value for 2014-2016 should be $12.03 \mu\text{g}/\text{m}^3$ using the higher annual mean for 2016 calculated by the Commenter. The Commenter claims the difference is material because the analysis leads to a determination that Lebanon County is still not attaining the standard of $12.0 \mu\text{g}/\text{m}^3$. Additionally, the Commenter requests that if EPA "has relied primarily on data from POC 1, to the exclusion of data from POC 3, it should provide an explanation of the legal and technical authority for doing so." The Commenter notes data from POC 1 was generally lower than data from POC 3 when both monitors were operating on the same dates.

Response 2: As discussed in Response 1, POC 1 became the designated primary monitor as of January 2016. *See* 40 CFR part 50, appendix N, section 3.0(d)(1) and (2) and Docket ID EPA-R03-OAR-2017-0479-0016. When calculating the 2016 annual mean, EPA used the data from

primary monitor POC 1 and substituted any missing days from the primary monitor with data from collocated monitor POC 3. *Id.* This resulted in 2016 quarterly means of 12.18, 8.70, 8.62, 9.37 $\mu\text{g}/\text{m}^3$ and an annual mean of 9.72 $\mu\text{g}/\text{m}^3$, and not 12.22 $\mu\text{g}/\text{m}^3$, which Commenter calculated by inappropriately combining data from POC 1 and POC 3. POC 1 is the primary monitor and thus the primary source of data for determining the mean unless data is missing. *Id.* Thus, EPA correctly calculated the 2016 annual mean and the 2014-16 design value as explained in the NPR. While EPA disagrees with the Commenter's analysis as stated above, EPA notes that the Commenter's calculated design value of 12.03 $\mu\text{g}/\text{m}^3$ (even if correct) would still demonstrate an attaining design value for the 2012 annual $\text{PM}_{2.5}$ NAAQS. 40 CFR part 50, appendix N, section 4.3(a) states, "[a]nnual $\text{PM}_{2.5}$ NAAQS DVs (design values) shall be rounded to the nearest tenth of a $\mu\text{g}/\text{m}^3$ (decimals x.x5 and greater are rounded up to the next tenth, and any decimal lower than x.x5 is rounded down to the nearest tenth)." Therefore, based on the rounding conventions established at 40 CFR part 50, appendix N, section 4.3(a), 12.03 $\mu\text{g}/\text{m}^3$ would round to 12.0 $\mu\text{g}/\text{m}^3$ and still meet the 2012 annual $\text{PM}_{2.5}$ NAAQS.

Comment 3: The Commenter states that an EPA guidance document contemplates supplementing data from a primary monitor with data from a secondary monitor. *See* AQS Tech Note POC 6-28-13, Technical Note – Guidance on the Use of Parameter Occurrence Codes (POCs) When Using Multiple Instruments at Monitoring Sites, <https://www.epa.gov/aqs/aqs-tech-note-poc-6-28-13> ("The regulatory language for particulate matter (PM) and lead (Pb) monitoring allows for the combining of data when the primary monitor at the site does not sample on a particular day either due to it not being a scheduled sampling day or the instrument did not collect a valid sample.").

Response 3: “AQS (Air Quality System) Tech Note POC 6-28-13” is a technical memo from EPA to states, local, tribal, and other data users who use the Air Quality System⁵ (AQS) to submit and retrieve air quality data. The memo explains that each individual monitor should be reported to AQS under a specific POC even if the data from these monitors is going to routinely be combined as the site record. Reporting data this way allows data users to properly assess the quality of data from a specific monitor while providing the proper sample completeness at a monitoring site. The memo goes further to explain that in 2008, AQS was enhanced to automatically combine PM_{2.5} values from collocated data in accordance with 40 CFR part 50, appendix N. As described in Response 1, EPA does allow the data from a collocated monitor to be considered as part of the combined site data record when there is no valid daily value from the primary monitor. EPA thus correctly considered data from the collocated monitor in Lebanon County when appropriate in accordance with 40 CFR part 50, appendix N.

Comment 4: The Commenter states that there is a discrepancy for the third quarter of 2016, as the Commenter found 92 data samples instead of 91 data samples using data downloaded from EPA’s website.

Response 4: EPA has reviewed the third quarter data for 2016 and has determined that on August 10, 2016, neither POC 1 nor POC 3 produced a valid daily value. Therefore, 91 data samples were used in calculating the third quarter 2016 mean. Thus, no discrepancy or error exists.

Comment 5: The Commenter claims that EPA relied on data from POC 3 exclusively for 2014 and 2015 and excluded data from POC 3 in the face of lower data from a new POC 1.

⁵ AQS is EPA’s repository of ambient air quality data. AQS stores data from over 10,000 monitors, 5000 of which are currently active. See <https://www.epa.gov/aqs>.

Response 5: As previously discussed in Response 1, POC 1 is the designated primary monitor as of January 2016 and POC 3 is a collocated monitor. *See* 40 CFR part 50, appendix N, section 3.0(d)(1) and (2). Therefore, the data from primary monitor POC 1 is used as the site record, but is augmented with data from collocated monitor POC 3 whenever there is missing data from POC 1. In 2016, POC 3 data was used as the site record 60 days out of the 364 days used to calculate the 2016 annual mean because data from POC 1, the designated primary monitor, was not available. EPA therefore appropriately used data from POC 1 when available in 2016 in calculating the annual mean and used data from POC 3 in 2016 when data from POC 1 was unavailable in accordance with CAA regulations.

IV. Final Action

EPA is making a final determination that the Lebanon County Area has attained the 2012 annual $PM_{2.5}$ NAAQS. As provided in 40 CFR 51.1015, finalization of this determination suspends the requirements for this area to submit an attainment demonstration, associated RACM, RFP plan, contingency measures, and any other planning SIP requirements related to the attainment of the 2012 $PM_{2.5}$ NAAQS, so long as this area continues to meet the standard. This determination of attainment does not constitute a redesignation to attainment. The Lebanon County Area will remain designated nonattainment for the 2012 annual $PM_{2.5}$ NAAQS until such time as EPA determines that the area meets the CAA requirements for redesignation to attainment, including an approved maintenance plan, pursuant to sections 107 and 175A of the CAA.

V. Statutory and Executive Order Reviews

A. General Requirements

This rulemaking action proposes to make a determination of attainment of the 2012 $PM_{2.5}$

NAAQS based on air quality data and does not impose additional requirements. For that reason, this proposed determination of attainment:

- 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 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 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, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the Lebanon County Area does not include any Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 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. 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).

C. Petitions for Judicial Review

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 determining that the Lebanon County Area attained the 2012 annual PM_{2.5} NAAQS 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, Particulate matter, Reporting and recordkeeping requirements.

Dated: February 15, 2018.

Cosmo Servidio,
Regional Administrator,
Region III.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

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

Subpart NN—Pennsylvania

2. Section 52.2059 is amended by adding paragraph (w) to read as follows:

§ 52.2059 Control strategy: Particulate matter.

* * * * *

(w) *Determination of Attainment.* EPA has determined based on 2014 to 2016 ambient air quality monitoring data, that the Lebanon County, Pennsylvania moderate nonattainment area has attained the 2012 annual fine particulate matter (PM_{2.5}) primary national ambient air quality standard (NAAQS). This determination, in accordance with 40 CFR 51.1015, suspends the requirements for this area to submit an attainment demonstration, associated reasonably available control measures, a reasonable further progress plan, contingency measures, and other planning state implementation plan revisions related to attainment of the standard for as long as this area continues to meet the 2012 annual PM_{2.5} NAAQS.

[FR Doc. 2018-04424 Filed: 3/5/2018 8:45 am; Publication Date: 3/6/2018]