



## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

**[EPA-R08-OAR-2018-0309 and EPA-R10-OAR-2018-0316: FRL-9980-88-Region 8]**

### **Determination of Attainment by the Attainment Date and Clean Data Determination for the Logan, UT-ID 2006 24-Hour PM<sub>2.5</sub> Nonattainment Area**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing a determination of attainment by the attainment date and a clean data determination (CDD) for the 2006 24-hour fine particulate matter (PM<sub>2.5</sub>) Logan, Utah (UT)-Idaho (ID) nonattainment area. The determination is based upon quality-assured, quality-controlled and certified ambient air monitoring data showing that the area has attained the 2006 24-hour PM<sub>2.5</sub> National Ambient Air Quality Standards (NAAQS) based on 2015-2017 data available in the EPA's Air Quality System (AQS) database. Based on the proposed determination that the Logan, UT-ID nonattainment area is currently attaining the 24-hour PM<sub>2.5</sub> NAAQS, the EPA is also proposing to determine that the obligation for Utah and 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 not applicable for as long as the area continues to attain the NAAQS.

**DATES:** Comments must be received on or before **[insert date 30 days after date of publication in the Federal Register]**.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R08-OAR-2018-0309 and/or Docket ID No. EPA-R10-OAR-2018-0316 at <https://www.regulations.gov>. Follow the

online instructions for submitting comments. Once submitted, comments cannot be edited or removed from [www.regulations.gov](http://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 the disclosure of which 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 <https://www.epa.gov/dockets/commenting-epa-dockets>.

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

## **I. Background**

### **A. Designation and Classification of PM<sub>2.5</sub> Nonattainment Areas.**

On October 17, 2006 (71 FR 61144), the EPA revised the level of the 24-hour PM<sub>2.5</sub> NAAQS, lowering the primary and secondary standards from the 1997 standard of 65 micrograms per cubic meter ( $\mu\text{g}/\text{m}^3$ ) to 35  $\mu\text{g}/\text{m}^3$ . The EPA retained the form of the 1997 24-

hour standard, that is, the 98<sup>th</sup> percentile of the annual 24-hour concentrations at each population-oriented monitor within an area, averaged over 3 years. 71 FR 61164-5 (October 17, 2006).

On November 13, 2009 (74 FR 58688), the EPA designated a number of areas as nonattainment for the 24-hour PM<sub>2.5</sub> NAAQS of 35 µg/m<sup>3</sup>, including the Logan, UT-ID nonattainment area. The EPA originally designated these areas under the general provisions of CAA title I, part D, subpart 1 (“subpart 1”), under which attainment plans must provide for the attainment of a specific NAAQS (in this case, the 2006 PM<sub>2.5</sub> standards) as expeditiously as practicable, but no later than 5 years from the date the areas were designated nonattainment.

Subsequently, on January 4, 2013, the U.S. Court of Appeals for the District of Columbia Circuit held in *NRDC v. EPA*<sup>1</sup> that the EPA should have implemented the 2006 24-hour PM<sub>2.5</sub> standard based on both the general nonattainment area requirements in subpart 1 and the PM-specific requirements of CAA title I, part D, subpart 4 (“subpart 4”). In response to the Court’s decision in *NRDC v. EPA*, on June 2, 2014 (79 FR 31566), the EPA finalized the “Identification of Nonattainment Classification and Deadlines for Submission of State Implementation Plan (SIP) Provisions for the 1997 Fine Particulate (PM<sub>2.5</sub>) NAAQS and 2006 PM<sub>2.5</sub> NAAQS.” This rule classified the areas that were designated in 2009 as nonattainment to Moderate, and set the attainment SIP submittal due date for those areas at December 31, 2014.

After the court’s decision, on December 16, 2014, the Utah Department of Air Quality (UDAQ) withdrew all prior Logan, UT-ID PM<sub>2.5</sub> SIP submissions and submitted a new SIP to address both the general requirements of subpart 1 and the PM-specific requirements of subpart 4 for Moderate areas. Additionally, on December 24, 2014, the Idaho Department of

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<sup>1</sup> 706 F.3d 428 (D.C. Cir. 2013).

Environmental Quality (IDEQ) submitted a supplement to the 2012 SIP submission (“2014 amendment”) that included additional analyses intended to meet CAA subpart 4 requirements.

On August 24, 2016, the EPA finalized the Fine Particulate Matter National Ambient Air Quality Standards: State Implementation Plan Requirements (“PM<sub>2.5</sub> SIP Requirements Rule”), 81 FR 58010, which addressed the January 4, 2013 court ruling. The final PM<sub>2.5</sub> SIP Requirements Rule provides the EPA’s interpretation of the requirements applicable to PM<sub>2.5</sub> nonattainment areas and explains how air agencies can meet the statutory SIP requirements that apply under subparts 1 and 4 to areas designated nonattainment for any PM<sub>2.5</sub> NAAQS.

**B. Two, 1-year extensions for the Logan, UT-ID nonattainment area**

Under CAA section 188(d) and 40 CFR 51.1005, the EPA may grant a state’s request to extend the attainment date for a Moderate area for a 24-hour PM<sub>2.5</sub> standard if “(1) the State has complied with all requirements and commitments pertaining to the area in the applicable implementation plan; and (2) the 98<sup>th</sup> percentile 24-hour concentration at each monitor in the area for the calendar year that includes the applicable attainment date is less than or equal to the level of the applicable 24-hour standard.” The EPA cannot issue more than two, 1-year extensions for a single Moderate area.

Both the State of Utah and the State of Idaho submitted requests to extend the attainment date to December 31, 2016, and then to December 31, 2017.<sup>2</sup> The EPA granted those requests on September 8, 2017 (82 FR 42447). As a result, the EPA must examine monitor data values from 2015–2017 to determine whether the Logan, UT-ID area attained the NAAQS by the extended attainment date.

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<sup>2</sup> Each of the extension requests from Idaho and Utah can be found in the Region 8 and Region 10 dockets for the Logan, UT-ID nonattainment area proposed extension request actions. *See* EPA-R08-OAR-2017-0216 and EPA-R10-OAR-2017-0193.

**C. Prior actions on the Utah portion of the Logan, UT-ID nonattainment area**

The EPA previously acted on the area source rules and reasonably available control measure (RACM) analyses of the Utah Moderate PM<sub>2.5</sub> nonattainment area plan on September 9, 2015 (80 FR 54237), February 25, 2016 (81 FR 9343), October 19, 2016 (81 FR 71988) and September 14, 2017 (82 FR 43205). We have not acted on, approved or disapproved, any other portion of the Logan, UT-ID PM<sub>2.5</sub> attainment plan submitted by UDAQ. Since the EPA has not disapproved any portion of the plan, the clocks for sanctions under 179(a) and for a FIP under 110(c) are not in effect for the Utah portion of the Logan, UT-ID nonattainment area. Additionally, we proposed to approve the attainment demonstration and motor vehicle emission budgets (MVEB) for the Utah portion on December 4, 2017 (82 FR 57183).

**D. Prior action on the Idaho portion of the Logan, UT-ID nonattainment area**

Initially, the EPA approved Idaho's baseline emissions inventory on July 18, 2014 (79 FR 41904), and also approved certain control measures, including local ordinances and road sanding agreements, submitted in Idaho's attainment plan on March 24, 2014 (79 FR 16201). Subsequently, on January 4, 2017 (82 FR 729), the EPA published a partial approval and partial disapproval of the attainment plan for the Idaho portion of the Logan, UT-ID PM<sub>2.5</sub> nonattainment area. Specifically, the EPA approved Idaho's determination of which pollutants must be evaluated for control in the Idaho portion of the nonattainment and Idaho's RACM and reasonably available control technology (RACT) provisions. The EPA deferred action on the attainment demonstration, reasonable further progress (RFP), quantitative milestone, and MVEB requirements. Additionally, we disapproved the contingency measure element of Idaho's

attainment plan.<sup>3</sup> Since the EPA has disapproved this portion of the plan, the clocks for sanctions under 179(a) and for a FIP under 110(c) are in effect for the Idaho portion of the Logan, UT-ID nonattainment area. As discussed below, if the EPA finalizes this action, the clocks for sanctions and for a FIP will be deferred.

On August 8, 2017 (82 FR 37025), based on newly available air quality monitoring data, the EPA approved Idaho's attainment demonstration and approved Idaho's 2014 MVEB as early progress budgets. Additionally, the EPA conditionally approved the RFP, quantitative milestone and revised MVEB requirements. Idaho committed to submit revisions for the conditionally approved elements by August 1, 2018.

## **II. Determination of Attainment by the Attainment Date**

Under CAA section 188(b)(2), the EPA is required to determine within 6 months of the applicable attainment date whether a nonattainment area attained the standard by that date. As discussed above, on September 8, 2017, the EPA extended the attainment date for the Logan, UT-ID area to December 31, 2017. Under the EPA regulations at 40 CFR 50.13 and part 50, appendix N, section 4.2, the 2006 primary and secondary 24-hour PM<sub>2.5</sub> NAAQS are met when the 24-hour PM<sub>2.5</sub> NAAQS design value at each eligible monitoring site is less than or equal to 35 µg/m<sup>3</sup>. For the 24-hour PM<sub>2.5</sub> standards, appendix N defines eligible monitoring sites as those that meet the technical requirements in 40 CFR 58.11 and 58.30. Three years of valid annual PM<sub>2.5</sub> 98<sup>th</sup> percentile mass concentrations are required to produce a valid 24-hour PM<sub>2.5</sub> NAAQS design value. A year meets data completeness requirements when quarterly data capture rates for all four quarters are at least 75%. Nonetheless, where the 75% data capture requirement is not

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<sup>3</sup> The EPA extended the effective date of this partial approval and partial disapproval to April 20, 2017. *See* 82 FR 14463.

met, the 24-hour PM<sub>2.5</sub> NAAQS design value shall still be considered valid if it passes the maximum quarterly value data substitution test.

In accordance with the EPA regulations at 40 CFR part 50, appendix N, a finding of attainment of the 2006 24-hour PM<sub>2.5</sub> NAAQS must be based upon complete, quality-assured data gathered at established state and local air monitoring stations (SLAMS) and national air monitoring stations (NAMS) in the nonattainment area and entered in the EPA Air Quality System (AQS). Data from air monitors operated by state/local/tribal agencies in compliance with the EPA monitoring requirements must be submitted to AQS. Monitoring agencies annually certify that these data are accurate to the best of their knowledge. Accordingly, the EPA relies primarily on data in AQS when determining the attainment status of areas. *See* 40 CFR 50.13; 40 CFR part 50, appendix L; 40 CFR part 53; 40 CFR part 58, and 40 CFR part 58, appendices A, C, D, and E. All data are reviewed to determine the area's air quality status in accordance with 40 CFR 50, appendix N.

Additionally, a determination of attainment is not equivalent to a redesignation, and the state must still meet the statutory requirements for redesignation in order to be redesignated to attainment.

#### **A. Monitoring Network and Data Considerations**

Determining whether an area has attained the NAAQS pursuant to CAA section 188(b)(2) is based on monitored air quality data. Thus, the validity of a determination of attainment depends in part on whether the monitoring network adequately measures ambient PM<sub>2.5</sub> levels in the nonattainment area. The UDAQ and the IDEQ are the governmental agencies with the authority and responsibilities under each state's laws for collecting ambient air quality data for the Logan, UT-ID nonattainment area. Annually, UDAQ and IDEQ submit monitoring network

plans to the EPA. These plans document the establishment and maintenance of the air monitoring network, as required under 40 CFR part 58. With respect to PM<sub>2.5</sub> monitoring in the Logan, UT-ID nonattainment area, the EPA Regional offices for Region 8 and Region 10 have found that UDAQ's and IDEQ's annual network plans, respectively, met the applicable requirements under 40 CFR part 58 for the relevant period, 2015–2017, with the exception (discussed below) of UDAQ's 2015 network plan. Also, UDAQ and IDEQ annually certify that the data they submit to AQS are quality assured.

The UDAQ and IDEQ each operated PM<sub>2.5</sub> SLAMS monitors during the 2015–2017 period within the Logan, UT-ID PM<sub>2.5</sub> nonattainment area. In 2015, UDAQ operated two PM<sub>2.5</sub> monitoring sites, at Logan and Smithfield, and in 2016 and 2017, UDAQ operated only the Smithfield monitoring site. The IDEQ monitoring site for 2015, 2016 and 2017 was located in Franklin, Idaho.

#### **B. Logan/Smithfield, Utah Monitoring**

The 2015 Annual Monitoring Network Plan (AMNP) and Five-Year Network Assessment was submitted by UDAQ in June 2015. This plan and assessment was not reviewed and acted on by Region 8 due to Region 8's Technical Support Audit (TSA), which was completed in August 2015, and found major and minor/observation issues with the network. The objective of a TSA is to review a quality assurance (QA) system in order to evaluate the system's ability to ensure quality, in this case, the reporting of valid data to the EPA's AQS database. The QA requirements of 40 CFR part 58, appendices A through E pertain to regulatory air monitoring at SLAMS. A major finding may indicate that invalid data have been loaded in AQS or, if not corrected, future operations may result in collection of invalid data, and a minor/observation finding will not necessarily lead to data loss or invalidation, but warrant investigation, appropriate follow-up and

audit response. Additional details pertaining to the major and minor findings can be found in the 2015 TSA in the Region 8 docket (EPA-R08-OAR-2018-0309).

Due to these monitoring issues, the EPA was not able to approve UDAQ's 2015 AMNP and a large number of samples from the filter-based Federal Reference Method (FRM) monitor in Logan and Smithfield were invalidated.<sup>4</sup> The EPA worked with UDAQ to correct these deficiencies found in the August 2015 TSA and after their review of the PM<sub>2.5</sub> data for 2015, UDAQ removed the invalid samples for the Logan FRM monitor and left the valid samples in the AQS database. Additionally, some continuous sampler data from the Logan co-located Federal Equivalent Method (FEM) monitor were determined to have sufficient QA to meet NAAQS comparison requirements. Data from this co-located monitor were used to fill in some of the missing days in 2015, adding to the total number of samples that can be used to determine a 98<sup>th</sup> percentile value for that year and providing for a complete 2015 monitoring year. Utah used the methodology found in 40 CFR part 50, appendix N sections 3.0(d)(2) and 3.0(e) to substitute FEM data for the days without FRM data.

The EPA has reviewed the Logan site and, using the criteria found in 40 CFR part 58, appendix A, has determined that the QA for the continuous FEM monitor is acceptable. We therefore agree that the data from the FEM monitor can be substituted for the days for which the FRM monitor data was invalid, which would provide for a complete year in 2015 to be used in showing attainment. Pursuant to 40 CFR 50, appendix N, the standard must be met at each "eligible monitoring site," where an "eligible [monitoring] site" is defined in appendix N as a site that meets the requirements of 40 CFR 58.11 and 58.30. Thus, appendix N does not require AMNP approval, only that the monitoring site meets the substantive requirements. Upon

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<sup>4</sup> May 8, 2017 EPA Region 8 Memorandum; Logan, Utah PM<sub>2.5</sub> 2015 Design Value.

reviewing the Logan and Smithfield sites, despite the EPA not formally approving the 2015 AMNP, the EPA finds that the Logan and Smithfield sites met the requirements of 40 CFR 58.11 during 2015. On November 29, 2016, UDAQ submitted a letter that contained the AMP 430, AMP 450, AMP 256 and AMP 450NC reports required to certify the 2015 air quality data in Utah. UDAQ completed the data certification process in AQS and with the November 29, 2016 letter, certified that the 2015 air quality data is accurate. Additional information related to these monitors can be found in the November 23, 2016 memoranda found in the Region 8 docket (EPA-R08-OAR-2018-0309).

On March 14, 2017, the EPA approved Utah's 2016 AMNP. As part of the approval, we approved the closing of the Logan monitoring station on December 31, 2015 (AQS ID# 49-005-0004) and the establishment of the Smithfield monitoring station (AQS ID# 49-005-0007) as a maximum concentration site. Additionally, on April 20, 2017, UDAQ submitted a letter that contained the AMP 600 and AMP 450NC reports required to certify the 2016 air quality data in Utah. UDAQ completed the data certification process in AQS and with the April 20, 2017 letter, certified that the 2016 air quality data is accurate.

On October 27, 2017, the EPA approved Utah's 2017 AMNP, and on April 10, 2018, the UDAQ submitted a letter that contained the AMP 600 and AMP 450NC reports required to certify the 2017 air quality data in Utah. With the April 10, 2018 letter, UDAQ completed the data certification process in AQS and certified that the 2017 air quality data is accurate.

The Smithfield monitoring site data was incomplete for 2015 because the station, including the co-located continuous monitor, was not operating in January of that year. Thus, in order to establish 3 years of valid data at the Smithfield monitoring site, the EPA proposes to combine the January 2015 Logan data with Smithfield's February through December 2015 data.

In doing so, we are considering not only our approval of the replacement of the Logan monitor with the Smithfield monitor in the monitoring network, but also the consistency of the data from the two monitors. During 2015, data from the two monitors on days above  $10 \mu\text{g}/\text{m}^3$  was well correlated. For details, please see the June 13, 2018 memorandum to the docket entitled “Logan, Utah  $\text{PM}_{2.5}$  Monitoring Data Set Determination Memo.”

### **C. Franklin, ID Monitoring**

Idaho submitted its 2015 AMNP on August 12, 2015. Until June 30, 2015, Idaho had two regulatory air quality monitors running at the Franklin, ID site. As part of the network plan, Idaho proposed to replace the very sharp cut cyclone (VSCC) on its FEM continuous monitor with a sharp cut cyclone (SCC), making it a special purpose monitor for Air Quality Index (AQI) reporting. This change resulted in the FEM continuous monitor becoming non-regulatory, as of June 30, 2015. The EPA approved Idaho’s 2015 AMNP on October 28, 2015.<sup>5</sup>

Idaho submitted its 2016 AMNP on July 28, 2016. The EPA approved Idaho’s network plan on December 13, 2016. The regulatory FRM monitor at the Franklin, ID site did not meet the completeness requirements in Quarter 2 of 2016. Per 40 CFR part 50, appendix N, 4.2(c), when a monitor has less than 75% capture in a quarter (but greater than 50%), a substitution test can be performed to determine the validity of the data. The Franklin monitor had 70% completeness in Quarter 2 of 2016. Per the substitution test, the highest Quarter 2 value for the 3-year period under consideration is substituted for all missing data in the deficient quarter. The 2015-2017 design value is the 3-year period under consideration in this case. The highest value is  $10.3 \mu\text{g}/\text{m}^3$  within the 3-year period during that quarter of the year. Applying the maximum  $10.3$

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<sup>5</sup> In the approval letter, the EPA noted that since the alteration of the FEM continuous monitor did not change the SLAMS network, the EPA approval is not needed.

$\mu\text{g}/\text{m}^3$   $\text{PM}_{2.5}$  value to the missing data for the deficient quarter (Quarter 2, 2016) does not affect the 2015-2017 design value at the Franklin monitor.

Idaho submitted its initial 2017 AMNP on June 29, 2017, and submitted an addendum on October 31, 2017. The addendum requested changing the run schedule of the regulatory FRM monitor at the Franklin, ID site from every third day to daily. The EPA approved the 2017 AMNP, including the run schedule change, on November 8, 2017.<sup>6</sup>

#### **D. Evaluation of Current Attainment**

As discussed above, the EPA's evaluation of whether the Logan, UT-ID  $\text{PM}_{2.5}$  nonattainment area has attained the 2006 24-hour  $\text{PM}_{2.5}$  NAAQS is based on our review of the monitoring data, and takes into account the adequacy of the  $\text{PM}_{2.5}$  monitoring network in the nonattainment area and the reliability of the data collected by the network as discussed in the previous section of this document.

Based on our review, the  $\text{PM}_{2.5}$  monitoring network for the Logan, UT-ID nonattainment area meets the requirements stated above and is therefore adequate for use in determining whether the area attained the 2006 24-hour  $\text{PM}_{2.5}$  NAAQS. Additionally, the EPA has reviewed the data for the most recent 3-year period (2015-2017) for completeness and has determined that the data collected by UDAQ and IDEQ meets the completeness criterion for all 12 quarters at the Smithfield, Utah and Franklin, Idaho monitors.

The EPA reviewed the  $\text{PM}_{2.5}$  ambient air monitoring data from the Smithfield, Utah (AQS site 49-005-0007) and Franklin, Idaho (AQS site 16-041-0001) monitoring sites consistent with the requirements contained in 40 CFR part 50, as recorded in the EPA AQS database for the

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<sup>6</sup> The November 8, 2017 AMNP approval letter noted monitoring network deficiencies related to ozone monitoring and deficiencies in Idaho's network monitoring plan, but these were not deficiencies specific to  $\text{PM}_{2.5}$  air quality monitoring in the Logan, UT-ID Metropolitan Statistical Area.

Logan, UT-ID nonattainment area. For purposes of determining attainment by the December 31, 2017 extended attainment date, the EPA determined that the data recorded in the AQS database was certified and complete.

Additionally, UDAQ submitted exceptional events demonstrations for the year 2017. The PM<sub>2.5</sub> SIP Requirements Rule (81 FR 58010, August 24, 2016) states:

Air quality monitoring data that the EPA determines to have been influenced by an exceptional event under the procedural steps, substantive criteria, and schedule specified in the Exceptional Events Rule may be excluded from regulatory decisions such as initial area designations decisions and decisions associated with implementing the PM<sub>2.5</sub> NAAQS such as clean data determinations (CDD), evaluation of attainment demonstrations, and discretionary or mandatory reclassifications of nonattainment areas from Moderate to Serious. While the EPA may agree with the state's request to exclude event-influenced air quality monitoring data from regulatory decisions, these regulatory actions require the EPA to provide an opportunity for public comment on the claimed exceptional event and all supporting data prior to the EPA taking final agency action.

The EPA concurred on these exceptional events on June 15, 2018, and the concurrence is included in the Region 8 docket for this action (EPA-R08-OAR-2018-0309). This proposed determination of attainment and CDD provides the public with an opportunity to comment on the claimed exceptional events, all supporting documents and the EPA's concurrence with the State of Utah's requests.

The design value for the 2006 24-hour PM<sub>2.5</sub> NAAQS for the years 2015–2017 at the Smithfield, Utah site was 33 µg/m<sup>3</sup> and 30 µg/m<sup>3</sup> at the Franklin, Idaho site, which is less than the standard of 35 µg/m<sup>3</sup>. See Table 1 below for the annual 98<sup>th</sup> percentiles and 3-year design

value for the 2015-2017 monitoring period. On the basis of this review, we are proposing to determine that the Logan, UT-ID nonattainment area attained the 2006 24-hour PM<sub>2.5</sub> NAAQS by the attainment date.

**Table 1 – 2015-2017 Logan UT-ID Nonattainment Area PM<sub>2.5</sub> Monitoring Data**

Monitor name	AQS site ID	98 <sup>th</sup> percentile (µg/m <sup>3</sup> )			2015-2017 24-hour design value (µg/m <sup>3</sup> )
		2015	2016	2017	
Smithfield, UT	49-005-0007	28.9 <sup>a</sup>	34.4	36.0	33 <sup>a</sup>
Franklin, ID	16-041-0001	18.8	33.3	38.3 <sup>b</sup>	30 <sup>b</sup>

<sup>a</sup> This value combines monitor data from the Logan, UT and Smithfield, UT monitors. The EPA concurred exceptional events are excluded.

<sup>b</sup> This value includes 1 in 3 monitoring frequency from January 1 – August 9, 2017, and daily monitoring frequency from August 10 – December 31, 2017.

### III. Clean Data Determination

Over the past 2 decades, the EPA has consistently applied its “Clean Data Policy” interpretation to attainment related provisions of subparts 1, 2, and 4 of the CAA. The EPA codified the approach in the Clean Data Policy in the PM<sub>2.5</sub> SIP Requirements Rule (40 CFR 51.1015(a)) for the implementation of current and future PM<sub>2.5</sub> NAAQS. *See* 81 FR 58010, 58161 (August 24, 2016). For a complete discussion of the Clean Data Policy’s history and the EPA’s longstanding interpretation under the CAA, please refer to the August 24, 2016 PM<sub>2.5</sub> SIP Requirements Rule (81 FR 58010).

The general requirements of subpart 1 apply in conjunction with the more specific requirements of subpart 4, to the extent they are not superseded or subsumed by the subpart 4 requirements. Subpart 1 contains general air quality planning requirements for areas designated nonattainment. *See* section 172(c). Subpart 4 itself contains specific planning and scheduling requirements for particulate matter nonattainment areas, *See* section 188. The final PM<sub>2.5</sub> SIP

Requirements Rule interprets the CAA specific to PM<sub>2.5</sub> and provides information on the statutory requirements for SIPs for PM<sub>2.5</sub> nonattainment areas. *See* 81 FR 58010 (August 24, 2016).

As provided in 40 CFR 51.1015, so long as an area continues to meet the standard, finalization of a CDD suspends the requirements for a nonattainment area to submit an attainment demonstration, associated RACM, RFP plan, contingency measures and any other planning SIP requirements related to the attainment of the 2006 PM<sub>2.5</sub> NAAQS. For purposes of this NAAQS, the requirement to submit a projected attainment inventory as part of an attainment demonstration or RFP is also suspended by this determination. As discussed in the 2016 PM<sub>2.5</sub> SIP Requirements Rule, the nonattainment base emissions inventory required by section 172(c)(3) is not suspended by this determination because the base inventory is a requirement independent of planning for an area's attainment. *See* 81 FR 58009 at 58028 and 58127-8 and 80 FR 15340 at 15441-2. Additionally, nonattainment New Source Review (NNSR) requirements are discussed in the PM<sub>2.5</sub> SIP Requirements Rule, and required by CAA sections 110(a)(2)(C); 172(c)(5); 173; 189(a); and 189(e), as not being suspended by a CDD because this requirement is independent of the area's attainment planning. *See* 81 FR 58010 at 58107 and 58127.

By extension, the requirement to submit a MVEB for the attainment year for the purposes of transportation conformity is also suspended. A MVEB is that portion of the total allowable emissions defined in the submitted or approved control strategy implementation plan revision or maintenance plan for a certain date for the purpose of meeting RFP milestones or demonstrating attainment or maintenance of the NAAQS, for any criteria pollutant or its precursors, allocated to highway and transit vehicle use and emissions.<sup>7</sup> For the purposes of the transportation

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<sup>7</sup> 40 CFR 93.101.

conformity regulations, the control strategy implementation plan revision is the implementation plan which contains specific strategies for controlling the emissions of and reducing ambient levels of pollutants in order to satisfy CAA requirements for demonstrations of RFP and attainment.<sup>8</sup> Given that MVEBs are required to support the RFP and attainment demonstration requirements in the attainment plan, suspension of the RFP and attainment demonstration requirements through a CDD, also suspends the requirement to submit MVEBs for the attainment and RFP years. The suspension of planning requirements pursuant to 40 CFR 51.1015, does not preclude the state from submitting suspended elements of its moderate area attainment plan for EPA approval for the purposes of strengthening the state's SIP.

The suspension of the obligation to submit such requirements applies regardless of when the plan submissions are due. The CDD does not suspend CAA requirements that are independent of helping the area achieve attainment, such as the requirements to submit an emissions inventory and NNSR requirements. A clean data determination is not equivalent to a redesignation, and the state must still meet the statutory requirements for redesignation in order to be redesignated to attainment.

In accordance with 40 CFR 51.1015(a)(1) and (2), the CDD suspends the aforementioned SIP obligations until such time as the area is redesignated to attainment, after which such requirements are permanently discharged; or the EPA determines that the area has re-violated the PM<sub>2.5</sub> 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<sub>2.5</sub> NAAQS.

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<sup>8</sup> 40 CFR 93.101.

#### A. Clean Data Determination for the Logan, UT-ID Nonattainment Area

Based on the same monitoring data for the period 2015-2017, the EPA is also proposing to determine that the area has clean data for demonstrating attainment of the 2006 24-hour PM<sub>2.5</sub> NAAQS. In accordance with 40 CFR 51.1015, a CDD can be made upon a determination by the EPA that a Moderate PM<sub>2.5</sub> NAA is attaining the PM<sub>2.5</sub> NAAQS. As provided in 40 CFR 51.1015, so long as the EPA does not determine that the area has re-violated the standard, finalization of this determination suspends the requirements for this area to submit an attainment demonstration, associated RACM, RFP plan, contingency measures, and any other SIP planning requirements related to the attainment of the 2006 PM<sub>2.5</sub> NAAQS. For purposes of this NAAQS, the requirement to submit an attainment year projected inventory for the nonattainment area as part of an attainment demonstration or RFP as well as MVEB are also suspended by this determination. As discussed in the PM<sub>2.5</sub> SIP Requirements Rule, the base year inventory for the nonattainment area required by section 172(c)(3) is not suspended by this determination because the base year inventory is a requirement independent of planning for an area's attainment. *See* 81 FR 58009 at 58028 and 58127-8 and 80 FR 15340 at 15441-2. Additionally, NNSR requirements are discussed in the PM<sub>2.5</sub> SIP Requirements Rule, and required by CAA sections 110(a)(2)(C); 172(c)(5); 173; 189(a); and 189(e), as not being suspended by this determination because this requirement is independent of the area's attainment planning. *See* 81 FR 58010 at 58107 and 58127.

Under a CDD, the planning requirements noted above shall be suspended until such time as the area is redesignated to attainment, after which such requirements are permanently discharged. Specific to Idaho, we are proposing to suspend the requirements to submit RFP,

quantitative milestones, attainment year MVEB<sup>9</sup> and contingency measures.<sup>10</sup> If we finalize today's proposed CDD, any sanctions clocks under CAA section 179(a) or requirements that we promulgate a Federal Implementation Plan (FIP) under CAA section 110(c) for these SIP requirements will be suspended for the pendency of the CDD. If the EPA subsequently determines that the area is in violation of the 2006 24-hour PM<sub>2.5</sub> NAAQS, the EPA would rescind the CDD, the states would again be required to submit the suspended attainment plan elements to the EPA, and the FIP and sanctions clocks would resume. *See* 40 CFR 51.1015(a)(2).

Neither the proposed finding of attainment by the attainment date nor the proposed CDD is equivalent to the redesignation of the area to attainment. This proposed action, if finalized, will not constitute a redesignation to attainment under CAA section 107(d)(3)(E), because the states must have an approved maintenance plan for the area as required under section 175A of the CAA, and the EPA must determine that the area has met the other requirements for redesignation in order to be redesignated to attainment. The designation status of the area will remain nonattainment for the 2006 PM<sub>2.5</sub> NAAQS until such time as the EPA determines that the area meets the CAA requirements for redesignation to attainment in CAA section 107(d)(3)(E).

It is possible, although not expected, that the Logan, UT-ID area could violate the 24-hour PM<sub>2.5</sub> NAAQS before a maintenance plan is adopted, submitted and approved, and the area is redesignated to attainment. Pursuant to 40 CFR 51.1015(a)(2), if the EPA determines that the area has re-violated the 24-hour PM<sub>2.5</sub> NAAQS, the states shall be required to submit the suspended attainment plan elements. Even so, submission of the suspended elements may be

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<sup>9</sup> In accordance with 40 CFR 93.109(c)(5), Idaho will rely on the 2014 early progress MVEB approved on August 8, 2017, for the purposes of transportation conformity. 82 FR 37025.

<sup>10</sup> Pursuant to CAA section 110(k)(4), the EPA conditionally approved the RFP, quantitative milestones, and attainment year MVEB elements based on an April 25, 2017, commitment from the IDEQ to submit the elements by August 1, 2018. 82 FR 37028. If finalized, the CDD would suspend the state's obligation to meet this commitment. However, the CDD does not preclude the state from submitting the suspended elements.

insufficient to eliminate future violations.<sup>11</sup> Therefore, the issuance of a SIP call under section 110(k)(5) could be an appropriate response. This SIP call could require the states to submit, by a reasonable deadline not to exceed 18 months, a revised plan demonstrating expeditious attainment and complying with other requirements applicable to the area at the time of such finding. Under CAA section 172(d), the EPA may reasonably adjust the dates applicable to these requirements.

#### **IV. Proposed Action**

Pursuant to CAA section 188(b)(2), the EPA is proposing to determine, based on the most recent 3 years (2015-2017) of valid data,<sup>12</sup> that the Logan, UT-ID nonattainment area has attained the 2006 primary and secondary 24-hour PM<sub>2.5</sub> NAAQS by the December 31, 2017, attainment date.

In addition, pursuant to the Clean Data Policy codified at 40 CFR 51.1015(a), and based upon our proposed determination that the Logan, UT-ID nonattainment area has attained the standard, the EPA proposes to determine that the obligation to submit any remaining attainment-related SIP revisions arising from classification of the Logan, UT-ID area as a Moderate nonattainment area under subpart 4 of part D (of title I of the Act) for the 2006 24-hour PM<sub>2.5</sub> NAAQS is not applicable for so long as the area continues to attain the 2006 24-hour PM<sub>2.5</sub> NAAQS. If today's action is finalized as proposed, the sanctions and FIP clocks triggered by the partial disapproval of the contingency measure element of the Idaho portion of the Logan, UT-ID PM<sub>2.5</sub> SIP will be suspended. This proposed action, if finalized, would not constitute a redesignation to attainment under CAA section 107(d)(3).

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<sup>11</sup> As discussed in sections I.C. and I.D. of this Federal Register action, both Utah and Idaho have implemented RACM. In addition, Idaho has not adopted contingency measures as part of its Moderate area SIP.

<sup>12</sup> Meeting the requirements of 40 CFR part 50, appendix N, and part 58.

#### IV. Statutory and Executive Order Reviews

This action proposes to make a determination of attainment based on air quality and to suspend certain federal requirements, and thus would not impose additional requirements beyond those imposed by state law. For this reason, this proposed 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, this proposed action does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP obligations discussed herein do not apply to Indian tribes and thus this proposed action will not impose substantial direct costs on tribal governments or preempt tribal law.

**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: June 25, 2018.

Debra H. Thomas,  
Acting Regional Administrator,  
Region 8.

Dated: June 26, 2018.

Chris Hladick,  
Regional Administrator,  
Region 10.

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