



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[EPA-HQ-OAR-2019-0011; FRL-9994-83-OAR]

RIN 2060-AU14

Reconsideration of the Area Designation for the 2010 1-Hour Sulfur Dioxide (SO₂) Primary National Ambient Air Quality Standard for Williamson County, Illinois

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to reconsider the nonattainment designation under the Clean Air Act (CAA) for the Williamson County, Illinois area for the 2010 1-hour sulfur dioxide (SO₂) primary national ambient air quality standard (NAAQS). On June 30, 2016, the EPA Administrator signed a final action that designated the Williamson County, Illinois area as nonattainment based on a review of available information. On September 12, 2016, Southern Illinois Power Cooperative (SIPC), the owner of the largest source of SO₂ emissions in the area (the Marion Power Station), submitted to the EPA an updated modeling analysis that characterized SO₂ air quality in the area at the time of the final designation action. The EPA has reviewed that modeling and concludes the available information demonstrates that, as of the date of the Administrator's signature on the final action, the Williamson County, Illinois area was not violating the 2010 1-hour SO₂ NAAQS and was not contributing to a NAAQS violation in a nearby area. Therefore, the EPA is proposing to change the initial designation of Williamson County, Illinois, from nonattainment to attainment/unclassifiable.

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-HQ-OAR-2019-0011, at <http://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from 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 whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (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 <http://www2.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: For further information concerning this action, please contact Corey Mocka, U.S. EPA, Office of Air Quality Planning and Standards, Air Quality Policy Division, Mail Code C539-01, 109 T.W. Alexander Drive, Research Triangle Park, NC 27709; by telephone at (919) 541-5142 or by email at mocka.corey@epa.gov.

SUPPLEMENTARY INFORMATION

Throughout this document wherever “we,” “us,” or “our” is used, we mean the EPA.

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I. General Information

A. Glossary of Terms and Acronyms

The following are abbreviations of terms used in this notice.

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| AERMOD | American Meteorological Society/EPA Regulatory Model |
| APA | Administrative Procedure Act |
| CAA or Act | Clean Air Act |
| CBI | Confidential Business Information |
| CFR | Code of Federal Regulations |
| D.C. | District of Columbia |
| EPA or Agency | Environmental Protection Agency |
| FR | Federal Register |
| NAAQS | National Ambient Air Quality Standards |
| NTTAA | National Technology Transfer and Advancement Act |
| SIP | State Implementation Plan |
| SIPC | Southern Illinois Power Cooperative |
| SO ₂ | Sulfur Dioxide |
| RFA | Regulatory Flexibility Act |
| UMRA | Unfunded Mandate Reform Act of 1995 |
| TAD | Technical Assistance Document |
| TSD | Technical Support Document |
| U.S. | United States |

B. Docket

All documents in the docket are listed in the *www.regulations.gov* index, identified by Docket ID No. EPA-HQ-OAR-2019-0011. Although listed in the index, some information is not publicly available, *e.g.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the EPA Docket Center. Air dispersion modeling input and output files are too large to post in the docket or on the website and must be requested from the contact listed in the **FOR FURTHER INFORMATION CONTACT** section or from the EPA Docket Center. The EPA Docket Center can be contacted at (202) 566-1744, and is located at EPA Docket Center Reading Room, WJC West Building, Room 3334, 1301 Constitution Avenue NW., Washington, DC 20004. The hours of operation at the EPA Docket Center are 8:30 a.m.-4:30 p.m., Monday-Friday.

II. Background

A. Designations of Areas for the 1-Hour SO₂ NAAQS

In 2010, the EPA issued a notice of final rulemaking that revised the primary SO₂ NAAQS (75 FR 35520; June 22, 2010). The EPA established the revised primary SO₂ NAAQS at 75 parts per billion (ppb) which is attained when the 3-year average of the annual 99th percentile of daily maximum 1-hour average concentrations does not exceed 75 ppb. The notice for the final rulemaking provides information on the health effects of exposures to SO₂ concentrations and other information on the NAAQS.

The process for designating areas following promulgation of a new or revised NAAQS is contained in CAA section 107(d) (42 U.S.C. 7407(d)). After promulgation of a new or revised NAAQS, each governor or tribal leader is required to recommend air quality designations,

including the appropriate boundaries for nonattainment areas, to the EPA.¹ The EPA considers these recommendations as part of its duty to promulgate the formal area designations and boundaries for the new or revised NAAQS. By no later than 120 days prior to promulgating designations, the EPA is required to notify states, territories, and tribes, as appropriate, of any intended modifications to an area designation or boundary recommendation that the EPA deems necessary.

B. Round 2 Designation of Williamson County, Illinois²

The Marion Power Station, owned by SIPC, is a source of SO₂ emissions located in southern Williamson County, Illinois in a rural area adjacent to the Lake of Egypt. The EPA was required under the conditions of a May 2015 enforceable court order to designate the area around the Marion Power Station by July 2, 2016 (*see* 81 FR 45039).

In 2011, following the promulgation of the revised SO₂ NAAQS, the state of Illinois initially recommended a designation of unclassifiable for Williamson County. In September 2015, Illinois updated its recommendation for Williamson County to attainment based on air quality modeling conducted by the state and submitted to the EPA. No ambient monitoring data were available for any part of the county. While formulating the EPA's intended designation, we also received air quality modeling from Sierra Club for this area that purported to demonstrate the area was not attaining the 2010 SO₂ NAAQS. In our review of the two modeling submissions, the EPA found the state's September 2015 modeling used an emission rate that was

¹ Tribal leaders are also invited to make air quality designation recommendations for areas of Indian country.

² The EPA refers to the designations of selected areas, including Williamson County, Illinois, for the 1-hour SO₂ NAAQS that the Agency finalized in 2016 as "Round 2" designations. The EPA also finalized designations for other selected areas in 2013 (Round 1; *see* 78 FR 47191) and 2018 (Round 3; *see* 83 FR 1098 and 83 FR 14597).

below actual 2012-2014 emission rates. The Sierra Club's modeling, in contrast, used actual 2012-2014 emission rates, consistent with the EPA's SO₂ NAAQS Designations Modeling Technical Assistance Document (TAD). Most other aspects of the Sierra Club modeling were similar to the modeling submitted by Illinois, though the Sierra Club modeled SO₂ air quality at receptors on the facility-owned "Northern Property" adjacent to the main plant (and identified nonattainment receptors on that property) and Illinois' modeling did not. The Sierra Club modeling used the same building dimensions as the Illinois modeling. Neither Illinois' nor Sierra Club's modeling suggested that the Marion Power Station (or any other sources in the county) contributed to a violation of the NAAQS in any separate nearby area. In February 2016, the EPA notified Illinois of our intended designation of nonattainment for the entirety of Williamson County based primarily on Sierra Club's modeling along with consideration of other available evidence.^{3,4}

During the March 2016 public comment period on the intended nonattainment designation, the EPA received three new modeling runs for the area from a consultant to SIPC that purported to demonstrate the area around the Marion Power Station was attaining the 2010 SO₂ NAAQS.^{5,6} These modeling runs were all based on actual 2013-2015 emissions. The SIPC modeling runs differed from Illinois' modeling in some respects but were the same as the Illinois

³ Letter dated February 16, 2016 from Robert A. Kaplan, Acting Regional Administrator, EPA Region 5, to Illinois Governor Bruce Rauner regarding the EPA's intended designations for the 2010 SO₂ NAAQS, Docket Item No. EPA-HQ-OAR-2014-0464-0127.

⁴ Illinois Technical Support Document for the EPA's Intended Designations, Docket Item No. EPA-HQ-OAR-2014-0464-0128.

⁵ Docket Item No. EPA-HQ-OAR-2014-0464-0318.

⁶ Two of SIPC's modeling runs used non-regulatory AERMOD options that the EPA could not rely on to evaluate whether the Williamson County, Illinois area was meeting the 2010 SO₂ NAAQS. The EPA's discussion here and in the TSD for the final designations for areas in Illinois thus focus on analyzing the one SIPC modeling run that used AERMOD in its regulatory default mode.

modeling with respect to using the same building geometries and excluding modeling receptors on the facility-owned “Northern Property” adjacent to the main plant. In its comments on the intended nonattainment designation for Williamson County, the state endorsed the new modeling from the SIPC consultant. After analyzing issues with SIPC’s modeling, the EPA concluded that SIPC’s modeling “was incomplete in the sense that an important receptor area [i.e., the Northern Property] was inappropriately excluded from the analysis.”⁷ In the final action signed on June 30, 2016, the EPA designated the entirety of Williamson County as nonattainment, based on consideration of all submitted modeling. Full reviews of all the modeling analyses submitted to the EPA for the designation of Williamson County can be found in the technical support document (TSD) for the intended Illinois designations and the TSD for the final Illinois designations. This designation triggered Illinois’ duty to develop and submit to the EPA a state implementation plan (SIP) under CAA sections 172, 191 and 192 demonstrating attainment of the SO₂ NAAQS.

C. Petitions and Additional Modeling Received from SIPC Subsequent to the Designation of Williamson County

In September 2016, SIPC submitted a petition for reconsideration of the EPA’s nonattainment designation for Williamson County.^{8,9} SIPC included several additional modeling runs as part of the petition for reconsideration that reflected different building dimensions at the Marion Power Station than those used in Illinois’ modeling, Sierra Club’s modeling, and SIPC’s

⁷ Illinois Technical Support Document for the EPA’s Final Designations, Docket Item No. EPA-HQ-OAR-2014-0464-0402.

⁸ Docket Item No. EPA-HQ-OAR-2014-0464-0427.

⁹ SIPC also filed a petition for judicial review of the designation in the Court of Appeals for the Seventh Circuit, which was later transferred to the Court of Appeals for the D.C. Circuit.

previous March 2016 modeling.¹⁰ Overall, SIPC's September 2016 modeling of actual emissions indicated no violations of the NAAQS in the 3-year period of 2013-2015 and did not identify any nonattainment receptors on the Northern Property. In January 2017, Administrator McCarthy denied SIPC's petition for reconsideration, explaining that the petition did not meet the criteria the EPA elected to use to evaluate whether the action warranted reconsideration.¹¹

In June 2017, SIPC submitted a petition to the EPA seeking error correction of the final rule designating Williamson County, Illinois as nonattainment. In this June 2017 petition, SIPC requested that the EPA correct what SIPC alleged to be particular errors in the EPA's final designation action for Williamson County.

In September 2017, EPA Administrator Pruitt responded to the letter transmitting SIPC's petition for error correction by indicating the EPA's intention to undertake an administrative action with notice and comment to revisit the nonattainment designation.¹² In its September 2016 petition for reconsideration, SIPC indicated that the revised building dimensions were based on a survey conducted in 2016. On November 6, 2018, SIPC submitted to the EPA supplemental information with regard to the specifics of and the basis for the revised building inputs used in

¹⁰ Accurate representation of building parameters is important to better account for the effects on modeled concentrations of downwash, eddies, and wakes from buildings. Generally, modeling with building downwash effects tends to result in higher modeled ground concentrations near the building versus modeling without downwash effects. Therefore, an accurate representation of physical structures, such as buildings, in the vicinity of a plume is important to ensure reliable estimates of ambient air concentrations.

¹¹ See the EPA's response to SIPC's September 2016 petition for reconsideration, Docket Item Nos. EPA-HQ-OAR-2014-0464-0439 and EPA-HQ-OAR-2014-0464-0444. This response letter with enclosures is also available at https://www.epa.gov/sites/production/files/2017-01/documents/bonebrake_letter_and_enclosure.pdf.

¹² Upon being informed of the EPA's intention to undertake further administrative proceedings regarding this area's designation, the D.C. Circuit granted the EPA's motion to place the judicial petitions from SIPC in abeyance.

the modeling submitted as part of its September 2016 petition for reconsideration.¹³ This proposal initiates our notice and comment administrative action to reconsider the designation, based upon our review of this submitted information that characterizes SO₂ air quality at the time of this area's designation.

III. Proposed Action

In September 2016, SIPC submitted to the EPA additional information and updated modeling, which included modeling receptors on the Northern Property, pertaining to the designation of Williamson County, Illinois. On November 6, 2018, SIPC submitted to the EPA supplemental information to clarify the specifics of and the basis for the revised building inputs used in the September 2016 modeling. A full review of this supplemental information is provided in the TSD for this action, which is available in the public docket. Based on this review, including consideration of this clarifying information, the EPA proposes that the September 2016 SIPC modeling is representative of the relevant calendar years (2013-2015 actual emissions) of SO₂ air quality in Williamson County at the time of the final designation on June 30, 2016.¹⁴ The EPA also proposes to find that the modeling demonstrates that in the 2013-2015 modeling period the area was not violating the 1-hour SO₂ NAAQS or was not contributing to a violation in any nearby area at the time of the 2016 final designation.

This information includes the addition of receptors in the Northern Property and refinements of the building dimensions as processed for downwash purposes. The EPA proposes to find that this modeling, with our evaluation of the additional information submitted by SIPC documenting building dimensions and evidence that modeled predictions in the Northern Property are below

¹³ Docket Item No. EPA-HQ-OAR-2014-0464-0458.

¹⁴ Technical Support Document for Williamson County, Illinois Modeling Submitted September 2016, Docket No. EPA-HQ-OAR-2019-0011.

the 1-hr SO₂ NAAQS, provides a credible assessment of air quality throughout the area at the time of designation. Based on this updated modeling, the EPA proposes to conclude that the entire area had no violations of the 1-hr SO₂ NAAQS in the period 2013-2015, the three most recent calendar years prior to our designations final action. Additionally, SIPC does not contribute to any nearby nonattainment area. The nearest SO₂ nonattainment area is over 160 kilometers away, beyond the distance at which Marion Power Station would likely have impact on SO₂ air quality.

Accordingly, we are proposing to change the initial designation of Williamson County, Illinois for the 2010 1-hour SO₂ NAAQS. Based on the information available to the EPA, we are proposing to finalize the Williamson County, Illinois area's initial designation as attainment/unclassifiable for that SO₂ NAAQS. If the EPA takes final action to change Williamson County, Illinois' designation, that final action would relieve Illinois of the obligation under CAA sections 172, 191, and 192 to submit a SIP that demonstrates attainment of the SO₂ NAAQS. The EPA invites public input on this proposed action regarding the Williamson County, Illinois area during the 30-day comment period provided in this notice. At this time, the EPA is not taking action or soliciting public comment on the 2010 1-hour SO₂ NAAQS designations for geographic areas beyond Williamson County, Illinois. This opportunity for public comment does not affect any rights or obligations of any state, territory, or tribe, or of the EPA, which might otherwise exist pursuant to the CAA section 107(d).

IV. Environmental Justice Considerations

When the EPA establishes a new or revised NAAQS, the CAA requires the EPA to designate all areas of the United States as either nonattainment, attainment, or unclassifiable.

This proposal is reconsidering the nonattainment designation for the Williamson County, Illinois area for the 2010 1-hour SO₂ NAAQS. Area designations address environmental justice concerns by ensuring that the public is properly informed about the air quality in an area. In locations where air quality does not meet the NAAQS, the CAA requires relevant state authorities to initiate appropriate air quality management actions to ensure that all those residing, working, attending school, or otherwise present in those areas are protected, regardless of minority and economic status.

V. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is exempt from review by the Office of Management and Budget because it is a designation for the Williamson County, Illinois area for the 2010 1-hour SO₂ NAAQS.

B. Executive Order 13771: Reducing Regulations and Controlling Regulatory Costs

This action is not an Executive Order 13771 regulatory action because actions such as air quality designations after promulgating a new revised NAAQS are exempt under Executive Order 12866.

C. Paperwork Reduction Act (PRA)

This action does not impose an information collection burden under the PRA. In this action, the EPA is reconsidering the SO₂ NAAQS designation for the Williamson County, Illinois area promulgated previously on July 12, 2016, and does not contain any information collection activities.

D. Regulatory Flexibility Act (RFA)

This action under CAA section 107(d) is not subject to the RFA. The RFA applies only to rules subject to notice-and-comment rulemaking requirements under the Administrative Procedure Act (APA), 5 U.S.C. 553, or any other statute. Section 107(d)(2)(B) of the CAA explicitly provides that designations are exempt from the notice-and-comment provisions of the APA. In addition, designations under CAA section 107(d) are not among the list of actions that are subject to the notice-and-comment rulemaking requirements of CAA section 307(d).

E. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate as described in the Unfunded Mandates Reform Act, 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. The division of responsibility between the federal government and the states for purposes of implementing the NAAQS is established under the CAA.

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

This action does not have tribal implications, as specified in Executive Order 13175. This action concerns the designation of Williamson County, Illinois for the 2010 SO₂ NAAQS. This rule does not have a substantial direct effect on one or more Indian tribes. This action when final would change the initial designation for Williamson County for the 2010 1-hour SO₂ NAAQS,

but no areas of Indian country are intended to be designated or to have their designation changed by this action. There are no areas of Indian country in or near Williamson County. Furthermore, this rule does not affect the relationship or distribution of power and responsibilities between the federal government and Indian tribes. The CAA and the Tribal Authority Rule establish the relationship of the federal government and tribes in developing plans to attain the NAAQS, and this rule does nothing to modify that relationship. Thus, Executive Order 13175 does not apply.

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

The EPA interprets Executive Order 13045 as applying 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 establish an environmental standard intended to mitigate health or safety risks.

I. Executive Order 13211: Actions 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 (NTTA)

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 does not have disproportionately high and adverse human health or environmental effects on minority populations, low-income populations, and/or

indigenous peoples, as specified in Executive Order 12898 (59 FR 7629, February 16, 1994).

When the EPA establishes a new or revised NAAQS, the CAA requires the EPA to designate all areas of the U.S. as either nonattainment, attainment, or unclassifiable. This action is reconsidering the nonattainment designation for the Williamson County, Illinois area for the 2010 1-hour SO₂ NAAQS. Area designations address environmental justice concerns by ensuring that the public is properly informed about the air quality in an area. In locations where air quality does not meet the NAAQS, the CAA requires relevant state authorities to initiate appropriate air quality management actions to ensure that all those residing, working, attending school, or otherwise present in those areas are protected, regardless of minority and economic status. The documentation for this determination is contained in Section IV of this preamble, “Environmental Justice Considerations.”

List of Subjects in 40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated: May 28, 2019.

William L. Wehrum,

Assistant Administrator.

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