



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R10-OAR-2019-0412; FRL-10011-59-Region 10]

Determination of Failure to Attain by the Attainment Date and Denial of Serious Area Attainment Date Extension Request; AK: Fairbanks North Star Borough 2006 24-hour Fine Particulate Matter Serious Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is finalizing the determination that the Fairbanks North Star Borough nonattainment area failed to attain the 2006 24-hour fine particulate matter (PM_{2.5}) National Ambient Air Quality Standards (NAAQS) by the December 31, 2019 “Serious” area attainment date. This determination is based on complete, quality-assured and certified PM_{2.5} monitoring data for 2017 through 2019. The EPA is also finalizing the denial of the State’s request for an extension of the Serious area attainment date for the Fairbanks North Star Borough nonattainment area. Based on this final action, the State will be subject to further statutory and regulatory requirements for this area, including a new State Implementation Plan (SIP) submission meeting additional requirements that the State must submit by December 31, 2020.

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

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA-R10-OAR-2019-0412. All documents in the docket are listed on the <https://www.regulations.gov> Web site. Although listed in the index, some information is not publicly available, e.g., Confidential

Business Information or other information the disclosure of which is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available at <https://www.regulations.gov>, or please contact the person listed in the FOR FURTHER INFORMATION CONTACT section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Matthew Jentgen at (206) 553-0340, or jentgen.matthew@epa.gov.

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

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. Background Information
- II. Final Action
- III. Statutory and Executive Order Reviews

I. Background Information

On May 19, 2020, the EPA proposed to determine that the Fairbanks North Star Borough PM_{2.5} nonattainment area (Fairbanks PM_{2.5} Nonattainment Area) failed to attain the 2006 24-hour PM_{2.5} NAAQS by the December 31, 2019, Serious area attainment date (85 FR 29879). The EPA also proposed to deny the State’s request for an extension of the Serious area attainment date for the Fairbanks PM_{2.5} Nonattainment Area. The reasons for our proposed actions were included in the notice of proposed rulemaking and will not be restated here. The public comment period for our proposed action ended on June 18, 2020.

The EPA received three comments on the proposed actions. Two comments were supportive of the actions as proposed. These comments also raised additional issues related to air

quality planning and monitoring in the Fairbanks North Star Borough. These issues are beyond the scope of the proposed actions. The EPA notes that, as a result of failing to attain the NAAQS by the Serious area attainment date, the State is required to submit a revised nonattainment plan that meets the requirements of CAA Section 189(d) by December 31, 2020. The public will have the opportunity to comment on these plan revisions.

The final comment the EPA received was clearly not related to these actions and thus not adverse to these actions. The comment lacked the required specificity to the proposed actions and did not recommend a different action than the one proposed. Therefore, the EPA is finalizing the actions as proposed.

II. Final Action

Pursuant to CAA section 179(c)(1), the EPA is making a final determination that the Fairbanks PM_{2.5} Nonattainment Area did not attain the NAAQS by the applicable outermost Serious area attainment date of December 31, 2019, in accordance with CAA section 188(c)(2). In accordance with CAA section 188(e) and 40 CFR 51.1005(b), the EPA is also finalizing the denial of the State's request to extend the Serious area attainment date.

III. Statutory and Executive Order Reviews

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

These actions are exempt from review by the Office of Management and Budget (OMB) because the actions satisfy the CAA obligation to make a determination of attainment based on an area's air quality as of the attainment date and deny an attainment date extension request.

B. Executive Order 13771: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

These actions are not Executive Order 13771 regulatory actions because they are not significant regulatory actions under Executive Order 12866.

C. Paperwork Reduction Act (PRA)

These actions do not impose any additional information collection burden under the provisions of the PRA, 44 U.S.C. 3501 *et seq.* Neither the action to find that the Fairbanks PM_{2.5} Nonattainment Area failed to attain the 2006 24-hour PM_{2.5} NAAQS by the Serious area attainment date, nor the denial of the attainment extension request establish any new information collection burden not already covered under OMB control number 2060-0611.

D. Regulatory Flexibility Act (RFA)

I certify that these actions will not have a significant economic impact on a substantial number of small entities under the RFA. These actions will not impose any requirements on small entities. Neither a determination that the Fairbanks PM_{2.5} Nonattainment Area failed to attain the 2006 24-hour PM_{2.5} NAAQS by the Serious area attainment date, nor a denial of an attainment date extension request create any new requirements or directly regulate any entities.

E. Unfunded Mandates Reform Act (UMRA)

These actions do not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and do not significantly or uniquely affect small governments. These actions do not impose additional requirements beyond those imposed by state law. Thus, these actions impose no enforceable duty on any state, local or tribal governments or the private sector.

F. Executive Order 13132: Federalism

These actions do not have federalism implications. They 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

These actions do not have tribal implications as specified in Executive Order 13175. The CAA and the Tribal Authority Rule establish the relationship of the federal government and tribes in developing plans to attain the NAAQS, and these actions do nothing to modify that relationship. Thus, Executive Order 13175 does not apply to these actions.

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

These actions are not subject to Executive Order 13045 because they are not economically significant as defined in Executive Order 12866, and because the EPA does not believe any environmental health or safety risks addressed by these actions present a disproportionate risk to children.

I. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

These actions are not subject to Executive Order 13211, because they are not significant regulatory actions under Executive Order 12866.

J. National Technology Transfer and Advancement Act (NTTAA)

These actions are not subject to the requirements of Section 12(d) of the NTTAA because these actions do 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 these actions do 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).

Pursuant to the CAA, these actions determine that the Fairbanks PM_{2.5} Nonattainment Area did not attain by the applicable attainment date and deny the state's attainment date extension request.

L. Congressional Review Act (CRA)

These actions are 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. These actions are not a "major rule" as defined by 5 U.S.C. 804(2).

M. Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of these actions 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 these actions 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 rules or actions. These actions 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, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

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

Dated: July 28, 2020.

Christopher Hladick,
Regional Administrator,
Region 10.

[FR Doc. 2020-17541 Filed: 9/1/2020 8:45 am; Publication Date: 9/2/2020]