



## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R09-OAR-2023-0035; FRL-10594-02-R9]

### Finding of Failure to Attain the 1987 24-Hour PM<sub>10</sub> Standards;

### Pinal County, Arizona

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is taking final action to determine that the West Pinal County, Arizona nonattainment area (“West Pinal County” or “area”) did not attain the 1987 24-hour national ambient air quality standards (NAAQS or “standards”) for particulate matter with a diameter of 10 micrometers or smaller (PM<sub>10</sub>) by its December 31, 2022 “Serious” area attainment date. This action is based on the EPA’s calculation of the PM<sub>10</sub> design value for the nonattainment area over the 2020–2022 period, using complete, quality-assured, and certified PM<sub>10</sub> monitoring data. With this final determination that West Pinal County has failed to attain the PM<sub>10</sub> NAAQS by its attainment date, the State of Arizona is required to submit a revision to the Arizona state implementation plan (SIP) that, among other elements, provides for expeditious attainment of the PM<sub>10</sub> standards and for a five percent annual reduction in the emissions of direct PM<sub>10</sub> or a PM<sub>10</sub> plan precursor pollutant in the nonattainment area.

**DATES:** This rule is effective on [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA-R09-OAR-2023-0035. 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 (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 <https://www.regulations.gov>, or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information. If you need assistance in a language other than English or if you are a person with a disability who needs a reasonable accommodation at no cost to you, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

**FOR FURTHER INFORMATION CONTACT:** Ashley Graham, Geographic Strategies and Modeling Section (AIR-2-2), EPA Region IX, 75 Hawthorne Street, San Francisco, CA 94105. By phone: (415) 972-3877 or by email at [graham.ashleyr@epa.gov](mailto:graham.ashleyr@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document, “we,” “us,” and “our” refer to the EPA.

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### **I. Summary of the Proposed Action**

On February 15, 2023, the EPA proposed to determine that the West Pinal County nonattainment area failed to attain the 1987 24-hour PM<sub>10</sub> NAAQS by its December 31, 2022 “Serious” area attainment date.<sup>1</sup> For a PM<sub>10</sub> nonattainment area classified as Serious under the CAA, such as the West Pinal County area, section 188(c)(2) of the CAA states that the area’s attainment date is “as expeditiously as practicable but no later than the end of the tenth calendar year beginning after the area's designation as nonattainment.” Consequently, the applicable attainment date for West Pinal County, designated nonattainment in 2012, was December 31,

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<sup>1</sup> 88 FR 9812.

2022.<sup>2</sup> CAA sections 179(c)(1) and 188(b)(2) require the EPA to determine whether a PM<sub>10</sub> nonattainment area attained the 1987 24-hour PM<sub>10</sub> NAAQS by the area's attainment date within six months after that date. Generally, this determination of whether an area's air quality meets the PM<sub>10</sub> standards is based upon the most recent three years of complete, certified data gathered at eligible monitoring sites in accordance with 40 CFR part 58.<sup>3</sup>

An area attains the 1987 24-hour PM<sub>10</sub> standards of 150 micrograms per cubic meter ( $\mu\text{g}/\text{m}^3$ ) when the expected number of days per calendar year with a 24-hour concentration exceeding the standards, referred to as an "exceedance",<sup>4</sup> averaged over a three-year period is equal to or less than one. The expected number of exceedances averaged over a three-year period at any given monitor is known as the PM<sub>10</sub> design value for that site.<sup>5</sup> The PM<sub>10</sub> design value for the nonattainment area is the highest design value from a monitor within that area. Three consecutive years of air quality data are required to show attainment of the PM<sub>10</sub> standards.

Our proposed determination that the West Pinal County area failed to attain the PM<sub>10</sub> NAAQS was based on our review of preliminary monitoring data for 2020–2022.<sup>6</sup> As discussed in our proposal,<sup>7</sup> while complete 2020 and 2021 data were available, the deadlines for

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<sup>2</sup> The EPA's proposed rule discusses that on May 31, 2022, the Arizona Department of Environmental Quality adopted and submitted the "2022 Serious Area Particulate Plan for PM-10 for the West Pinal County Nonattainment Area", which included a request for an extension of the December 31, 2022 attainment date pursuant to CAA section 188(e), but that the EPA has not approved the plan or attainment date extension. Therefore, the maximum Serious area attainment date for West Pinal County remains December 31, 2022.

<sup>3</sup> 40 CFR part 50, Appendix K, section 2.3(a).

<sup>4</sup> An exceedance is defined as a daily value that is above the level of the 24-hour standards, 150  $\mu\text{g}/\text{m}^3$ , after rounding to the nearest 10  $\mu\text{g}/\text{m}^3$  (i.e., values ending in five or greater are to be rounded up). Consequently, a recorded value of 154  $\mu\text{g}/\text{m}^3$  would not be an exceedance because it would be rounded to 150  $\mu\text{g}/\text{m}^3$ ; whereas, a recorded value of 155  $\mu\text{g}/\text{m}^3$  would be an exceedance because it would be rounded to 160  $\mu\text{g}/\text{m}^3$ . See 40 CFR 50.6 and 40 CFR part 50, Appendix K, section 1.0.

<sup>5</sup> A design value is calculated using a specific methodology from monitored air quality data and is used to compare an area's air quality to a NAAQS. The methodologies for calculating expected exceedances for the 1987 24-hour PM<sub>10</sub> NAAQS are found in 40 CFR Part 50, Appendix K, Section 2.1(a).

<sup>6</sup> The EPA also based the determination on the adequacy of the PM<sub>10</sub> monitoring network in the nonattainment area and the reliability of the data collected by that network (88 FR 9812, 9814). For purposes of our proposal, we reviewed findings from the EPA's 2019 technical systems audit (TSA), which was the most recent TSA available at that time. For purposes of this final action, we also reviewed the findings from the EPA's 2022 TSA (see EPA Region IX, Technical Systems Audit of the Ambient Air Monitoring Program: Pinal County Air Quality Control District, September 13–15, 2022 (Final Report dated May 2023)). As with the 2019 TSA, none of the findings from the 2022 TSA were cause for invalidation of any data from the relevant monitors and thus the EPA continues to find that the data collected at the West Pinal monitoring sites are suitable for determining whether West Pinal County attained the PM<sub>10</sub> NAAQS by the applicable attainment date.

<sup>7</sup> 88 FR 9812, 9814.

submission of quarter 4 (October through December) 2022 data and certification of the 2022 data had not yet passed at the time our proposal was being developed and these data had not yet been submitted and certified. The 2022 data were therefore considered incomplete and preliminary. We reviewed such data for all regulatory monitoring sites measuring PM<sub>10</sub> within the West Pinal County nonattainment area, expressed as a single design value for each site representing the preliminary average expected exceedances over the three-year period, 2020–2022. The PM<sub>10</sub> data showed that the design values at multiple monitoring sites were greater than 1.0 estimated annual average exceedances of the 1987 24-hour PM<sub>10</sub> NAAQS. Moreover, the EPA explained that even if there were zero exceedances in 2022, the 2020–2022 design value would exceed 1.0 at multiple monitoring sites. Consequently, the EPA proposed to determine, based on complete and quality-assured 2020 and 2021 data and preliminary 2022 data, that the West Pinal County nonattainment area did not attain the 1987 24-hour PM<sub>10</sub> NAAQS by the applicable attainment date of December 31, 2022.

In our proposal to determine that the West Pinal County area did not attain the NAAQS by the relevant attainment date, the EPA noted that the consequence of a final determination is that the State of Arizona would be required under CAA sections 179(d) and 189(d) to submit, by December 31, 2023, a revision to the SIP for West Pinal County.<sup>8</sup> The SIP revision must, among other elements, demonstrate expeditious attainment of the standards within the time period provided under CAA section 179(d), provide for an annual reduction in the emissions of direct PM<sub>10</sub> or a PM<sub>10</sub> plan precursor pollutant within the area of not less than five percent until attainment, demonstrate reasonable further progress, and include contingency measures. The requirement for a new attainment demonstration under CAA section 189(d) also triggers the requirement for the SIP revision for quantitative milestones under section 189(c) that are to be achieved every three years until redesignation to attainment.

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<sup>8</sup> 88 FR 9812, 9815.

Our proposed rule also discussed that because the EPA has not yet approved a Moderate or Serious area attainment plan for West Pinal County, the Moderate and Serious area requirements also remain outstanding, though the EPA anticipates that Arizona's submission of an approvable Serious area and 189(d) nonattainment plan would also satisfy the State's Moderate area nonattainment plan obligations.<sup>9</sup> The EPA explained that the new attainment date is the date by which attainment can be achieved as expeditiously as practicable, but no later than five years from the date of the final determination of failure to attain, except that the EPA may extend the attainment date for a period no greater than 10 years from the final determination, considering the severity of nonattainment and the availability and feasibility of pollution control measures.

## **II. Public Comments and EPA Responses**

The public comment period for the proposed rule opened on February 15, 2023, the date of its publication in the *Federal Register*, and closed on March 17, 2023. During this period, the EPA received comments from the Sierra Club and from a private citizen.<sup>10</sup> The Sierra Club comment letter expressed support for our proposal and urged the EPA to finalize the determination. The comments from the private citizen pertain to the processes followed by the Arizona Agricultural Best Management Practices Committee and are not directly relevant to this finding of failure to attain the PM<sub>10</sub> NAAQS. Copies of the Sierra Club comment letter and comments from the private citizen are included in the docket for this final action.

## **III. The EPA's Final Evaluation of Attainment**

As discussed in Section I of this document, our proposed determination that the West Pinal County area failed to attain the 1987 24-hour PM<sub>10</sub> NAAQS was based on the EPA's calculation of the preliminary PM<sub>10</sub> design value for the nonattainment area over the 2020–2022

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<sup>9</sup> Id.

<sup>10</sup> Comment submitted March 17, 2023, from Sierra Club to docket number EPA-R09-OAR-2023-0035, with attached letter dated March 17, 2023, from Sandy Bahr, Chapter Director, Sierra Club – Grand Canyon Chapter, to Ashley Graham, Air Planning Office (AIR-2), EPA Region IX; and comment submitted March 17, 2023, from Dan Blackson, to docket number EPA-R09-OAR-2023-0035.

period. Since the time of the EPA’s proposal, the Pinal County Air Quality Control District has submitted the 2022 quarter 4 data to the EPA’s Air Quality System (AQS) database,<sup>11</sup> and has certified that the 2022 concentration data are accurate, taking into consideration the quality assurance findings.<sup>12</sup>

For purposes of this final action, we reviewed the final quality-assured and certified PM<sub>10</sub> air quality monitoring data from the 2020–2022 calendar years. Table 1 of this document provides the estimated number of PM<sub>10</sub> exceedances in each of the years 2020–2022, and final certified 2022 PM<sub>10</sub> design values expressed as a single value representing the average expected exceedances over the three-year period, 2020–2022, for all regulatory monitoring sites measuring PM<sub>10</sub> within West Pinal County. These design values are identical to those shown in our proposal and are greater than 1.0 estimated annual average exceedance of the 1987 24-hour PM<sub>10</sub> NAAQS at multiple monitoring sites. Consequently, the EPA is finalizing a determination that, based on complete and quality-assured 2020–2022 data, West Pinal County did not attain the 1987 24-hour PM<sub>10</sub> NAAQS by the applicable attainment date of December 31, 2022.

**Table 1. 2020–2022 PM<sub>10</sub> Estimated Exceedances for the West Pinal County Nonattainment Area**

Monitoring Site	AQS Site ID #	PM <sub>10</sub> Estimated Exceedances			
		2020	2021	2022	2020–2022
Casa Grande Downtown	04-021-0001-3	1.2	2	0	1.1
Stanfield	04-021-3008-3	4	4	2	3.3
Combs	04-021-3009-3	0	1	0	0.3
Pinal County Housing (aka Eleven Mile Corner)	04-021-3011-3	1	3	0	1.3
Eloy	04-021-3014-3	2.2	3	0	1.7
Hidden Valley	04-021-3015-3	59.6	24	14.1	32.6
Maricopa 1405	04-021-3016-3	3	2	1	2

Source: EPA AQS Design Value Report, AMP 480, dated May 23, 2023. (User ID: JCARLSTAD, Report Request ID: 2107794).

#### IV. Final Action

<sup>11</sup> AQS is the EPA’s national repository of ambient air quality data.

<sup>12</sup> Letter dated April 27, 2023, from Josh DeZeeuw, Air Quality Manager, Pinal County Air Quality Control District, to Dena Vallano, Manager, Monitoring and Analysis Section, US EPA Region IX, Subject: “RE: AQS Data Certification – 2022.”

In accordance with sections 179(c)(1) and 188(b)(2) of the CAA, the EPA is taking final action to determine that the West Pinal County Serious nonattainment area did not attain the 1987 24-hour PM<sub>10</sub> NAAQS by the Serious area attainment date of December 31, 2022. Our determination that West Pinal County failed to attain the PM<sub>10</sub> NAAQS is based on complete, quality-assured, and certified PM<sub>10</sub> monitoring data for the appropriate three-year period, 2020–2022.

As a result of our determination of failure to attain the 1987 24-hour PM<sub>10</sub> NAAQS by the Serious area attainment date, Arizona is required under CAA sections 179(d) and 189(d) to submit a revision to the SIP for West Pinal County that, among other elements, demonstrates expeditious attainment of the standards within the time period provided under CAA section 179(d), and that provides for an annual reduction in the emissions of direct PM<sub>10</sub> or a PM<sub>10</sub> precursor pollutant within the area of not less than five percent until attainment. The SIP revision required under CAA sections 179(d) and 189(d) will be due for submittal to the EPA no later than December 31, 2023.

## **V. Statutory and Executive Order Reviews**

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

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

This action is not a significant regulatory action and was therefore not submitted to the Office of Management and Budget (OMB) for review.

### *B. Paperwork Reduction Act (PRA)*

This action does not impose an information collection burden under the provisions of the PRA because it does not contain any information collection activities.

### *C. Regulatory Flexibility Act (RFA)*

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. This action does not impose any requirements on small entities. This action requires the State to adopt and submit SIP revisions to satisfy CAA requirements and does not itself directly regulate any small entities.

*D. Unfunded Mandates Reform Act (UMRA)*

This action does not contain any unfunded mandate of \$100 million or more, as described in UMRA (2 U.S.C. 1531–1538) and does not significantly or uniquely affect small governments. This action itself imposes no enforceable duty on any state, local, or tribal governments, or the private sector. This action determines that West Pinal County failed to attain the NAAQS by the applicable attainment date. As of the effective date, this determination triggers existing statutory timeframes for the state to submit a SIP revision. Such a determination in and of itself does not impose any federal intergovernmental mandate.

*E. 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.

*F. Executive Order 13175: Coordination with Indian Tribal Governments*

This action does not have tribal implications, as specified in Executive Order 13175. As there are no federally recognized tribes within West Pinal County,<sup>13</sup> the finding of failure to attain the PM<sub>10</sub> NAAQS does not apply to tribal areas, and the rule would not impose a burden on Indian reservation lands or other areas where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction within West Pinal County. Thus, this rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175.

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<sup>13</sup> A map of Federally-Recognized Tribes in the EPA's Pacific Southwest (Region IX) is available at <https://www.epa.gov/tribal-pacific-sw/map-federally-recognized-tribes-epas-pacific-southwest-region-9>.

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

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of “covered regulatory action” in section 2-202 of the Executive Order. This action is not subject to Executive Order 13045 because the effect of this action is to trigger additional planning requirements under the CAA. This action does not establish an environmental standard intended to mitigate health or safety risks.

*H. Executive Order 13211: Actions that Significantly Affect Energy Supply, Distribution, or Use*

This final rule is not subject to Executive Order 13211, because it is not a significant regulatory action under Executive Order 12866.

*I. National Technology Transfer and Advancement Act (NTTAA)*

This rulemaking does not involve technical standards.

*J. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations*

Executive Order 12898 (59 FR 7629, February 16, 1994) directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations (people of color and/or Indigenous peoples) and low-income populations. There is no information in the record indicating that this action would be inconsistent with the stated goals of Executive Order 12898 of achieving environmental justice for people of color, low-income populations, and indigenous peoples.

*K. Congressional Review Act (CRA)*

This rule is exempt from the CRA because it is a rule of particular applicability. This rule makes factual determinations for specific entities and does not directly regulate any entities. The

determination of a failure to attain by the attainment date and reclassification does not in itself create any new requirements beyond what is mandated by the CAA.

*L. Petitions for Judicial Review*

Under section 307(b)(1) of the Clean Air Act, 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 rule 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 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, Particulate matter, Reporting and recordkeeping requirements.

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

Dated: July 13, 2023.

Martha Guzman Aceves,  
*Regional Administrator,*  
*Region IX.*

Part 52, Chapter I, title 40 of the Code of Federal Regulations 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 D—Arizona**

2. Section 52.126 is amended by adding paragraph (e) to read as follows:

**§ 52.126 Control strategy and regulations: Particulate matter.**

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(e) Effective **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**, the EPA has determined that the West Pinal Serious PM<sub>10</sub> nonattainment area failed to attain the 1987 24-hour PM<sub>10</sub> NAAQS by the applicable attainment date of December 31, 2022. This determination triggers the requirements of CAA sections 179(d) and 189(d) for the State of Arizona to submit a revision to the Arizona SIP for West Pinal to the EPA by December 31, 2023. The SIP revision must, among other elements, demonstrate expeditious attainment of the 1987 PM<sub>10</sub> NAAQS within the time period provided under CAA section 179(d) and provide for an annual reduction in the emissions of direct PM<sub>10</sub> or a PM<sub>10</sub> plan precursor pollutant within the area of not less than five percent until attainment.

[FR Doc. 2023-15339 Filed: 7/20/2023 8:45 am; Publication Date: 7/21/2023]