

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 52**

[EPA-R05-OAR-2010-0393; FRL-9307-2]

**Proposed Approval of Air Quality Implementation Plan; Ohio and West Virginia; Determinations of Attainment of the 1997 Annual Fine Particle Standard for Four Nonattainment Areas****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to make two determinations regarding the fine particle (PM<sub>2.5</sub>) nonattainment areas of Cleveland-Akron, Columbus, Dayton-Springfield, and Steubenville-Weirton (hereafter referred to as "Areas"). First, EPA is proposing to determine that these Areas have attained the 1997 annual average PM<sub>2.5</sub> National Ambient Air Quality Standard (NAAQS) under the Clean Air Act (CAA). This proposed determination of attainment is based upon complete, quality-assured, and certified ambient air monitoring data for the 2007–2009 period showing that the areas have monitored attainment of the annual PM<sub>2.5</sub> NAAQS. EPA also evaluated incomplete data from this period from other monitors in the Cleveland-Akron area, as well as complete preliminary quality-assured data available to date for 2010. EPA believes these data support the determination that the Areas have attained the 1997 annual PM<sub>2.5</sub> NAAQS. If this proposed determination is made final, the requirements for these Areas to submit an attainment demonstration, associated reasonably available control measures (RACT) to include reasonably available control technology (RACT), a reasonable further progress (RFP) plan, contingency measures, and other planning State Implementation Plan (SIP) revisions related to attainment of the 1997 annual PM<sub>2.5</sub> NAAQS shall be suspended for so long as the Areas continue to attain the 1997 annual PM<sub>2.5</sub> NAAQS. Second, EPA is also proposing to determine, based on quality-assured and certified monitoring data for the 2007–2009 monitoring period, that these Areas have attained the 1997 annual PM<sub>2.5</sub> NAAQS by the applicable attainment date of April 5, 2010.

**DATES:** Comments must be received on or before June 16, 2011.**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R05-OAR-2010-0393, by one of the following methods:

1. *http://www.regulations.gov*: Follow the on-line instructions for submitting comments.

2. *E-mail*: [aburano.douglas@epa.gov](mailto:aburano.douglas@epa.gov).

3. *Fax*: (312) 408-2279.

4. *Mail*: Douglas Aburano, Chief, Control Strategies Section, Air Programs Branch (AR-18), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

5. *Hand Delivery*: Douglas Aburano, Chief, Control Strategies Section, Air Programs Branch (AR-18), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

*Instructions:* Direct your comments to Docket ID No. EPA-R05-OAR-2010-0393. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional instructions on submitting comments, go to Section I of the **SUPPLEMENTARY INFORMATION** section of this document.

*Instructions:* Direct your comments to Docket ID No. EPA-R05-OAR-2010-0393. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional instructions on submitting comments, go to Section I of the **SUPPLEMENTARY INFORMATION** section of this document.

*Docket:* All documents in the docket are listed in the *http://www.regulations.gov* index. 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 *http://www.regulations.gov* or in hard copy at the U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Carolyn Persoon, Environmental Engineer, at (312) 353-8290, before visiting the Region 5 office.

**FOR FURTHER INFORMATION CONTACT:** Region 5, Carolyn Persoon, Environmental Engineer, Control Strategies Section, Air Programs Branch (AR-18), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353-8290, [persoon.carolyn@epa.gov](mailto:persoon.carolyn@epa.gov). Region 3, Irene Shandruk, Office of Air Program Planning (3AP30), U.S. Environmental Protection Agency, Region 3, 1650 Arch Street, Philadelphia, PA 19103-2029, (215) 814-2166, [shandruk.irene@epa.gov](mailto:shandruk.irene@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document whenever "we," "us," or "our" is used, we mean EPA.

This supplementary information section is arranged as follows:

- I. What actions is EPA proposing?
- II. What is the background of these actions?
- III. What is EPA's analysis of the relevant air quality data?
- IV. What are the effects of these actions?
- V. Statutory and Executive Order Reviews

**I. What actions Is EPA proposing?**

In accordance with section 179(c) of the CAA, 42 U.S.C. 7509(c) and 40 CFR 51.1004(c), EPA is proposing to determine that three Ohio nonattainment areas (the Cleveland-Akron, the Columbus, and the Dayton-Springfield areas) and one Ohio-West Virginia bi-state area (the Steubenville-Weirton area) have attained the 1997 annual PM<sub>2.5</sub> NAAQS. This proposed determination is based upon complete, quality-assured, and certified ambient air monitoring data for the 2007–2009 monitoring period that show these Areas have monitored attainment of the 1997 annual PM<sub>2.5</sub> NAAQS. Complete

preliminary quality-assured data sets available for 2010 are consistent with continued attainment, as well as data from sites in the Cleveland-Akron area that were not considered complete, but that support attainment. EPA is also proposing to determine, in accordance with EPA's PM<sub>2.5</sub> Implementation Rule of April 25, 2007 (72 FR 20664), that these Areas have attained the 1997 annual PM<sub>2.5</sub> NAAQS by the applicable attainment date of April 5, 2010.

**II. What is the background for these actions?**

On July 18, 1997 (62 FR 36852), EPA established an annual PM<sub>2.5</sub> NAAQS at 15.0 micrograms per cubic meter (µg/m<sup>3</sup>) based on a three-year average of annual mean PM<sub>2.5</sub> concentrations. At that time, EPA also established a 24-hour standard of 65 µg/m<sup>3</sup>. (Today's action does not address the 24-hour standard.) See 40 CFR 50.7. On January 5, 2005 (70 FR 944), EPA published its air quality designations and classifications for the 1997 PM<sub>2.5</sub> NAAQS based upon air quality monitoring data from those monitors for calendar years 2001–2003. These designations became effective on April 5, 2005. The three areas in Ohio and the one bi-state area in Ohio and West Virginia were designated nonattainment for the 1997 PM<sub>2.5</sub> NAAQS. See 40 CFR 81.336 (Ohio) and 40 CFR 81.349 (West Virginia).

On October 17, 2006 (71 FR 61144), EPA retained the 1997 annual PM<sub>2.5</sub> NAAQS at 15.0 µg/m<sup>3</sup> based on a three-year average of annual mean PM<sub>2.5</sub> concentrations, and promulgated a 24-hour standard of 35 µg/m<sup>3</sup> based on a three-year average of the 98th percentile of 24-hour concentrations.

In response to legal challenges to the annual standards promulgated in 2006, the U.S. Court of Appeals for the District of Columbia Circuit (DC Circuit) remanded these standards to EPA for further consideration. See *American Farm Bureau Federation and National*

*Pork Producers Council, et al. v. EPA*, 559 F.3d 512 (DC Cir. 2009). However, given that the 1997 and 2006 annual standards are essentially identical, attainment of the 1997 annual standards would also indicate attainment of the remanded 2006 annual standards.

On April 25, 2007 (72 FR 20664), EPA promulgated its PM<sub>2.5</sub> implementation rule, codified at 40 CFR part 51, subpart Z, in which the Agency provided guidance for state and Tribal plans to implement the 1997 PM<sub>2.5</sub> standards. This rule, at 40 CFR 51.1004(c), specifies some of the regulatory consequences of attaining the standards, as discussed later.

**III. What is EPA's analysis of the relevant air quality data?**

Today's rulemaking assesses whether (1) the Cleveland-Akron, Columbus, Dayton-Springfield, and Steubenville-Weirton areas have attained the 1997 annual PM<sub>2.5</sub> standard, based on the most recent three years of quality-assured data, and (2) whether the Areas attained the 1997 annual PM<sub>2.5</sub> NAAQS by the applicable attainment date of April 5, 2010.

Under EPA's regulations at 40 CFR 50.7, the annual primary and secondary PM<sub>2.5</sub> standards are met when the annual arithmetic mean concentration, as determined in accordance with 40 CFR Part 50, appendix N, is less than or equal to 15.0 µg/m<sup>3</sup> at all relevant monitoring sites in the area.

EPA has reviewed the ambient air quality monitoring data in the Cleveland-Akron, Columbus, Dayton-Springfield, and Steubenville-Weirton areas for PM<sub>2.5</sub>, consistent with the requirements contained at 40 CFR part 50. EPA's review focused on data recorded in the EPA Air Quality System (AQS) database for the Cleveland-Akron, Columbus, Dayton-Springfield, and Steubenville-Weirton areas PM<sub>2.5</sub> nonattainment area from 2007 to 2009, and considered supplemental data sets that were incomplete due to the low

capture rates as well as complete, quality assured but not certified data for 2010.

The Cleveland-Akron area had eleven monitors located in Cuyahoga, Lorain, Medina, Summit, and Portage Counties that reported design values from 2007–2009 for PM<sub>2.5</sub> that ranged from 11.4 to 14.4 µg/m<sup>3</sup>.

The Columbus area had three monitors all located in Franklin County that reported a design value range of 11.7 to 13.0 µg/m<sup>3</sup> for the 2007–2009 time period.

The Dayton-Springfield area has three monitors, with one monitor in each of Clark, Greene, and Montgomery Counties. These monitors measured a range of 2007–2009 design values from 12.1 to 13.7 µg/m<sup>3</sup> with Montgomery reporting the highest PM<sub>2.5</sub> design value.

The Steubenville-Weirton area, in Ohio and West Virginia, has five monitoring stations, including two in Jefferson County, OH, two in Brooke County, West Virginia, and one in Hancock County, West Virginia. The range of design values for the Steubenville-Weirton area for 2007–2009 was 13.6 to 14.4 µg/m<sup>3</sup>, below the current annual PM<sub>2.5</sub> standard. We have examined data from the entire area, including monitored data from both Ohio and West Virginia.

Table 1 shows the 2007 to 2009 design values (i.e., the three-year average of annual mean PM<sub>2.5</sub> concentrations) for the 1997 annual PM<sub>2.5</sub> NAAQS for the Cleveland-Akron, Columbus, Dayton-Springfield, and Steubenville-Weirton areas for monitors with complete data for that period. Additionally, design values for the 2008–2010 period, using complete and quality-assured but not certified data for 2010, are also shown in Table 1, as supplementary information solely for the purposes of showing that all four areas are maintaining the current standard. All data values are expressed in micrograms per meter cubed.

TABLE 1—ANNUAL PM<sub>2.5</sub> DESIGN VALUES FOR OHIO (CLEVELAND-AKRON, COLUMBUS, DAYTON-SPRINGFIELD, AND STEUBENVILLE-WEIRTON) AREA MONITORS WITH COMPLETE DATA FOR 2007 TO 2009 IN µG/M<sup>3</sup>

State	County	Monitor	Annual design value 2007–2009 (µg/m <sup>3</sup> )	Preliminary annual design value 2008–2010 (µg/m <sup>3</sup> )
<b>Cleveland-Akron</b>				
OH	Cuyahoga	39–035–0034	11.6	10.7
		39–035–0038	14.4	13.6
		39–035–0045	13.6	12.9
		39–035–0060	14.1	13.4
		39–035–0065	14.3	13.4
		39–035–1002	12.1	11.4
	Lorain	39–093–3002	11.4	10.6

TABLE 1—ANNUAL PM<sub>2.5</sub> DESIGN VALUES FOR OHIO (CLEVELAND-AKRON, COLUMBUS, DAYTON-SPRINGFIELD, AND STEUBENVILLE-WEIRTON) AREA MONITORS WITH COMPLETE DATA FOR 2007 TO 2009 IN µg/m<sup>3</sup>—Continued

State	County	Monitor	Annual design value 2007–2009 (µg/m <sup>3</sup> )	Preliminary annual design value 2008–2010 (µg/m <sup>3</sup> )
	Medina .....	39–103–0003 .....	11.8	11.1
	Portage .....	39–133–0002 .....	12.3	11.5
	Summit .....	39–153–0017 .....	13.7	13.2
		39–153–0023 .....	12.7	12.3
<b>Columbus</b>				
OH .....	Franklin .....	39–049–0024 .....	13.0	12.5
		39–049–0025 .....	12.9	12.1
		39–049–0081 .....	11.7	11.2
<b>Dayton-Springfield</b>				
OH .....	Clark .....	39–023–0005 .....	13.2	.....
	Greene .....	39–057–0005 .....	12.1	12.1
	Montgomery .....	39–113–0032 .....	13.7	13.2
<b>Steubenville-Weirton</b>				
OH .....	Jefferson .....	39–081–0017 .....	14.2	13.0
		39–081–1001 .....	13.6	12.7
WV .....	Brooke .....	54–009–0005 .....	14.4	13.7
		54–009–0011 .....	14.0	13.1
	Hancock .....	59–029–1004 .....	13.4	12.4

As Table 1 shows, across the four areas, there were twenty-one monitoring sites with complete data for 2007 to 2009. Data are considered to be sufficient for comparison to the NAAQS if three consecutive complete years of data exist. A complete year of air quality data comprises four calendar quarters, with each quarter containing data from at least 75% capture of the scheduled sampling days. Data that does not meet the 75% capture has been analyzed by EPA with substitution of conservative values to determine that some sites not meeting capture rates are still sufficient to show attainment. Ohio has also submitted similar data substitutions to demonstrate that sites with less than 75% capture rates are still attaining even with the highest concentration from that specific monitor substituted for missing data. See 40 CFR Part 58, appendix D for network design criteria.

EPA has approved the monitoring networks for these four areas as adequate to evaluate the air quality of these areas, and so these twenty-one monitoring sites with complete data provide an adequate basis for EPA to determine whether the areas have attained the NAAQS. EPA concludes that the Cleveland-Akron, Columbus, Dayton-Springfield, and Steubenville-Weirton areas have attained the 1997 annual PM<sub>2.5</sub> NAAQS based on its evaluation of complete quality-assured data from the relevant monitoring sites for the 2007–2009 monitoring period.

Incomplete data from additional monitoring sites in the Cleveland-Akron area also support EPA’s determination that the area attains the 1997 annual PM<sub>2.5</sub> NAAQS. Two monitors located in Lake County did not record complete data for the three-year 2007–2009 monitoring period. Pertinent data from

these sites are shown in Table 2. One monitor (39–085–3002) was closed at the end of 2008 due to demolition at the site, and the other monitor (39–085–0007) then began operation at the beginning of 2009. Since both monitors were not capturing data for the entire span of 2007–2009, their data sets were considered incomplete. As shown in this table, although site 39–085–3002 did not have complete data for 2007 to 2009, the site’s design value calculated from 2006–2008 was attaining, and the average concentration from 2007 to 2008 support the conclusion that this location is attaining. Table 2 also includes site 39–085–0007 that started operation only recently; this site did not measure concentrations before 2009, but the average concentration for 2009 was 10.4 µg/m<sup>3</sup>, and the average concentration for 2010 was 10.5 µg/m<sup>3</sup>.

TABLE 2—PM<sub>2.5</sub> DESIGN VALUES FOR LAKE COUNTY AREA SITES WITH INCOMPLETE DATA IN 2007 TO 2009

State	County	Monitor	Average concentration for 2007–2009 (µg/m <sup>3</sup> )	Dates of operation	Most recent complete design value (µg/m <sup>3</sup> )	
					Value	Years
OH .....	Lake .....	39–085–0007 .....	10.4	1/1/2009–present .....	.....	.....
		39–085–3002 .....	12.7	1/11/2006–12/31/2008 .....	12.3	2006–2008

Data handling conventions and computations necessary for determining

whether areas have met the PM<sub>2.5</sub> NAAQS, including requirements for

data completeness, are specified in appendix N of 40 CFR part 50. The use

of less than complete data is subject to the approval of EPA, which may consider factors such as monitoring site closures/moves, monitoring diligence and nearby concentrations in determining whether to use such data as set forth at 40 CFR part 50, appendix N § 4.1(c). The monitors listed in Table 2 do not have complete data for the 2007–2009 monitoring period. However, the historical certified data recorded at the monitors that were discontinued during this period and recent certified data recorded at monitors that started operation during the period provide additional support for EPA's proposed determination that the Cleveland-Akron area has attained the 1997 annual PM<sub>2.5</sub> NAAQS. EPA is also approving the use of these data for consideration in this determination because it finds that Ohio has exercised diligence in monitoring in the Cleveland-Akron area, and has worked cooperatively with EPA in evaluating and seeking approval for monitor closures and moves, and because these data provide useful additional evidence as to whether this area is attaining the standard.

EPA's review of monitoring data from the 2007–2009 monitoring period supports EPA's determinations that the Cleveland-Akron, Columbus, Dayton-Springfield, and Steubenville-Weirton PM<sub>2.5</sub> nonattainment areas have: (1) Monitored attainment of the PM<sub>2.5</sub> NAAQS for such period; and (2) attained the PM<sub>2.5</sub> NAAQS by the attainment date of April 5, 2010. Additionally, the preliminary 2008–2010 monitoring data supports a finding that these Areas continue to meet the 1997 annual PM<sub>2.5</sub> NAAQS.

#### IV. What are the effects of these actions?

If EPA's proposed determination of attainment, based on the most recent three years of quality-assured data, is made final, under the provisions of the PM<sub>2.5</sub> Implementation Rule (40 CFR 51.1004(c)) the requirements for the Cleveland-Akron, Columbus, Dayton-Springfield, and Steubenville-Weirton PM<sub>2.5</sub> nonattainment areas to submit attainment demonstration, RACM (including RACT), an RFP plan, contingency measures, and other planning SIP revisions related to attainment of the 1997 annual PM<sub>2.5</sub> NAAQS shall be suspended for so long as the Areas continue to attain the 1997 annual PM<sub>2.5</sub> NAAQS.

As discussed further, the proposed determination of attainment for the Cleveland-Akron, Columbus, Dayton-Springfield, and Steubenville-Weirton PM<sub>2.5</sub> nonattainment areas would, if finalized, (1) suspend the states'

obligation for Ohio and West Virginia to submit the requirements listed above; (2) continue such suspension until such time, if any, that EPA subsequently determines that any monitor in the area has violated the 1997 annual PM<sub>2.5</sub> NAAQS; and (3) be separate from any future designation determination or requirements for the Cleveland-Akron, Columbus, Dayton-Springfield, and Steubenville-Weirton PM<sub>2.5</sub> nonattainment areas based on the 2006 PM<sub>2.5</sub> NAAQS or future PM<sub>2.5</sub> NAAQ revision.

If this rulemaking is finalized and EPA subsequently determines, after notice-and-comment rulemaking in the **Federal Register**, that any of the Areas have violated the 1997 annual PM<sub>2.5</sub> NAAQS, the basis for the suspension of the specific requirements, set forth at 40 CFR section 51.1004(c), would no longer exist, and the States of Ohio and West Virginia (if applicable) would thereafter have to address the pertinent requirements.

This proposed action is limited to the determinations that the air quality data show that the Cleveland-Akron, Columbus, Dayton-Springfield, and Steubenville-Weirton PM<sub>2.5</sub> nonattainment areas have monitored attainment of the 1997 annual PM<sub>2.5</sub> NAAQS, and have attained the PM<sub>2.5</sub> NAAQS by the attainment date of April 5, 2010; neither determination would result in a redesignation of the Cleveland-Akron, Columbus, Dayton-Springfield, and Steubenville-Weirton PM<sub>2.5</sub> nonattainment areas to the status of attainment of the 1997 annual PM<sub>2.5</sub> NAAQS.

This proposed action, if finalized, would not constitute a redesignation to attainment under CAA section 107(d)(3) of the CAA because EPA is not proposing to take action pursuant to CAA section 107(d)(3) and the statutory prerequisites set forth in CAA section 107(d)(3) have not yet been met. For example, EPA has not yet approved a maintenance plan for the areas as required under CAA section 175A, nor proposed a determination that the Cleveland-Akron, Columbus, Dayton-Springfield, and Steubenville-Weirton PM<sub>2.5</sub> nonattainment areas have met the other requirements for redesignation under the CAA.

The designation status of the portions of the Cleveland-Akron, Columbus, Dayton-Springfield, and Steubenville-Weirton PM<sub>2.5</sub> nonattainment areas will remain nonattainment for the 1997 annual PM<sub>2.5</sub> NAAQS until such time as EPA takes final rulemaking action to determine that such portions meet the CAA requirements for redesignation to attainment.

In addition, if EPA's separate and independent proposed determination that these Areas have attained the 1997 annual PM<sub>2.5</sub> standard by the applicable attainment date (April 5, 2010), is finalized, EPA will have met its requirement pursuant to section 179(c)(1) of the CAA to make a determination based on the Areas' air quality data as of the attainment date whether the Areas attained the standard by that date.

These two actions described above are proposed determinations regarding the Cleveland-Akron, Columbus, Dayton-Springfield, and Steubenville-Weirton areas' attainment only with respect to the 1997 annual PM<sub>2.5</sub> NAAQS. Today's actions do not address the 24-hour PM<sub>2.5</sub> NAAQS.

EPA is soliciting comment on the issues discussed in this document. These comments will be considered before EPA takes final action. Please note that if EPA receives adverse comment on either of the proposed determinations described above and if that determination may be severed from the remainder of the final agency action, EPA may adopt as final those provisions of the final agency action that are not the subject of an adverse comment.

#### V. Statutory and Executive Order Reviews

This action proposes to make attainment determinations based on air quality data and would, if finalized, result in the suspension of certain Federal requirements and would not impose any additional requirements. For that reason, this proposed action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- 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 (Pub. L. 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 Clean Air Act; and

- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, these proposed PM<sub>2.5</sub> NAAQS attainment determinations do not have Tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it 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, Particulate matter, Reporting and recordkeeping requirements.

Dated: May 3, 2011.

**Susan Hedman,**

*Regional Administrator, Region 5.*

Dated: May 5, 2011.

**W.C. Early,**

*Acting Regional Administrator, Region 3.*

[FR Doc. 2011-12061 Filed 5-16-11; 8:45 am]

**BILLING CODE 6560-50-P**

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Chapter I

[WC Docket No. 11-59; FCC 11-51]

#### Acceleration of Broadband Deployment by Improving Policies Regarding Public Rights of Way and Wireless Facilities Siting

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice of inquiry.

**SUMMARY:** In this document, the Federal Communications Commission seeks to work with stakeholders including state and local governments, other Federal agencies, Tribal governments, consumer advocates, and the private sector to identify means of improving rights of way policies and wireless facilities siting requirements. Policies for managing rights of way and siting

wireless facilities, including the procedures and costs for acquiring permission to build, affect how long it takes and how much it costs to deploy broadband. By working together with other interested parties on these issues, the Commission can reduce the costs and time required for broadband deployment, both fixed and mobile, which will help unleash private investment in infrastructure, increase efficient use of scarce public resources (including spectrum) and increase broadband adoption.

**DATES:** Comments are due July 18, 2011 and reply comments are due August 30, 2011.

**ADDRESSES:** You may submit comments, identified by WC Docket No. 11-59, by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

- *Federal Communications Commission's Web Site:* <http://fjallfoss.fcc.gov/ecfs2/>. Follow the instructions for submitting comments.

- *People with Disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by e-mail: [FCC504@fcc.gov](mailto:FCC504@fcc.gov) or phone: 202-418-0530 or TTY: 202-418-0432.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the supplementary information section of this document.

**FOR FURTHER INFORMATION CONTACT:** Claudia Pabo, Wireline Competition Bureau, Competition Policy Division, 202-418-1595.

#### SUPPLEMENTARY INFORMATION:

Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415 and 1.419, interested parties may file comments on or before July 18, 2011 and reply comments on or before August 30, 2011. Comments may be filed using: (1) The Commission's Electronic Comment Filing System (ECFS), (2) the Federal Government's eRulemaking Portal, or (3) by filing paper copies. See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

- *Electronic Filers:* Comments may be filed electronically using the Internet by accessing the ECFS: <http://fjallfoss.fcc.gov/ecfs2/> or the Federal eRulemaking Portal: <http://www.regulations.gov>.

- *Paper Filers:* Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this

proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St., SW., Room TW-A325, Washington, DC 20554. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building.

- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.

- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW., Washington, DC 20554.

*People with Disabilities:* To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

Filings and comments are also available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY-A257, Washington, DC 20554. They may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554, telephone: (202) 488-5300, fax: (202) 488-5563, or via e-mail <http://www.bcpweb.com>.

#### Initial Paperwork Reduction Act of 1995 Analysis

This document does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104-13. In addition, therefore, it does not contain any proposed information collection burden for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, see 44 U.S.C. 3506(c)(4).

Below is a synopsis of the Commission's Notice of Inquiry in WC Docket No. 11-59, adopted and released April 7, 2011.