

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 50

[EPA-HQ-OAR-2016-0408; FRL-9950-48-OAR]

RIN 2060-AS89

Technical Correction to the National Ambient Air Quality Standards for Particulate Matter

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking direct final action to make a technical correction to an equation in an appendix in the National Ambient Air Quality Standards (NAAQS) for Particulate Pollution.

Equation 2 describes an intermediate step in the calculation of the design value for the annual PM_{2.5} (particles with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers) NAAQS. This action corrects a scrivener's error in one of the equations used to calculate an annual mean PM_{2.5} concentration, to properly account for cases where a site does not have four complete quarters of data and passes one of two substitution tests. This change accurately reflects the intended calculation of the annual mean PM_{2.5} design value and is consistent with the text elsewhere in the appendix.

DATES: This rule is effective on October 11, 2016 without further notice, unless the EPA receives adverse comment by September 12, 2016. If the EPA receives adverse comment, we will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-HQ-OAR-2016-0408, to the *Federal eRulemaking Portal*: <http://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or withdrawn. 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 (e.g., 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: Mr. Brett Gantt, U.S. EPA, Office of Air Quality Planning and Standards, Air Quality Assessment Division, Air Quality Analysis Group (Mail Code: C304-04), Research Triangle Park, NC 27711; telephone number: (919) 541-5274; fax number: (919) 541-3613; email address: gantt.brett@epa.gov.

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I. General Information

A. Why is the EPA using a direct final rule?

The EPA is publishing this rule without a prior proposed rule because we view this as a non-controversial action and anticipate no adverse comment. This action corrects a scrivener's error in an intermediate equation in the calculation of the annual PM_{2.5} design value to properly account for cases where a site does not have four complete quarters of data in a specific year and passes the minimum quarterly value substitution test. In the "Proposed Rules" section of today's **Federal**

Register, we are publishing a separate proposed rule to correct this scrivener's error if any adverse comments are received on this direct final rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. For further information about commenting on this rule, see the

ADDRESSES section of this document.

If EPA receives adverse comment, we will publish a timely withdrawal in the **Federal Register** informing the public that this direct final rule will not take effect. We would address all public comments in any subsequent final rule based on the proposed rule.

B. Does this action apply to me?

This action applies to you if you are calculating the annual PM_{2.5} design value for a site which does not have four complete quarters of data for a specific year and passes the minimum quarterly value substitution test.

C. What should I consider as I prepare my comments for the EPA?

(1) *Submitting CBI.* Do not submit this information to EPA through www.regulations.gov or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD-ROM that you mail to the EPA, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 Code of Federal Regulations (CFR) part 2.

(2) *Tips for Preparing Your Comments.* When submitting comments, remember to:

- Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).
- Follow directions—The agency may ask you to respond to specific questions or organize comments by referencing a CFR part or section number.
- Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
- Describe any assumptions and provide any technical information and/or data that you used.
- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

- Provide specific examples to illustrate your concerns, and suggest alternatives.
- Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
- Make sure to submit your comments by the comment period deadline identified.

II. This Action

On December 14, 2012, the EPA revised the NAAQS for Particle Pollution (78 FR 3086). Appendix N to part 50 of this document described the data handling conventions and computations necessary for determining when the NAAQS for PM_{2.5} are met. Section 4.4 described the annual PM_{2.5} design value calculations, with equations 1, 2, and 3 used to calculate the quarterly, annual, and 3-year average concentrations. Equation 2 erroneously described the annual mean as the average of the four quarterly values despite the availability of substitution tests for cases when quarterly values do not meet the completeness requirements in section 4.1.

Specifically, the minimum quarterly value substitution test described in section 4.1(c)(i) allows for a valid annual PM_{2.5} design value to be calculated when a test design value, having deficient quarters substituted with quarter-specific low values, is found to be greater than the level of the standard. If the minimum quarterly value substitution test is passed, the annual PM_{2.5} design value is calculated from annual means of the non-deficient quarterly values, which can range in number from one to four for a specific year.

As currently written, equation 2 is not appropriate for use during a minimum quarterly value substitution test and does not accurately reflect the intended calculation of the annual mean PM_{2.5} concentration in these cases.¹ Therefore, this action generalizes equation 2 to account for cases that pass the minimum quarterly value substitution test, yet do not have four non-deficient quarterly values in each of the years in the 3-year design value period. This technical correction to equation 2 is currently used in the calculation of the PM_{2.5} annual design value, is consistent with the text of section 4.1 within appendix N to part 50, and does not affect the calculation of annual mean

PM_{2.5} concentrations when four complete quarters of data are available.

III. 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 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 PRA. This action generalizes the calculation of the annual PM_{2.5} NAAQS design values and does not impose additional regulatory requirements on organizations monitoring air quality.

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 will not impose any requirements on small entities. This action corrects the calculation of annual mean PM_{2.5} concentrations and does not impose additional regulatory requirements on sources.

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 imposes no enforceable duty on any state, local or tribal governments, or the private sector.

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: Consultation and Coordination With Indian Tribal Governments

This action does not have tribal implications, as specified in Executive Order 13175. This regulatory action is a technical correction to a previously promulgated regulatory action and does not have any impact on human health or the environment. Thus, Executive Order 13175 does not apply to this action.

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 it does not concern an environmental health risk or safety risk.

H. Executive Order 13211: Actions Concerning Regulations 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.

I. National Technology Transfer and Advancement Act

This rulemaking does not involve technical standards.

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

The EPA believes that this action is not subject to Executive Order 12898 (59 FR 7629, February 16, 1994) because it does not establish an environmental health or safety standard. This regulatory action is a technical correction to a previously promulgated regulatory action and does not have any impact on human health or the environment.

K. Congressional Review Act

This action is 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. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 50

Air pollution control, Carbon monoxide, Lead, Nitrogen dioxide, Ozone, Particulate matter, Sulfur oxides.

Dated: August 3, 2016.

Gina McCarthy,
Administrator.

For the reasons stated in the preamble, title 40, chapter I of the Code of Federal Regulations is amended as follows:

¹ If read literally with the scrivener's error, it would be erroneous to use Equation 2 to calculate the annual PM_{2.5} NAAQS for any year with a deficient quarter of data because the equation instructs the user to sum all *four* quarters when at least one of those quarters contains missing data.

PART 50—NATIONAL PRIMARY AND SECONDARY AMBIENT AIR QUALITY STANDARDS

■ 1. The authority citation for part 50 continues to read as follows:

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

■ 2. In appendix N to part 50, in section 4.4, Equation 2 is revised to read as follows:

Appendix N to Part 50—Interpretation of the National Ambient Air Quality Standards for PM_{2.5}

* * * * *

4.4 Equations for the Annual PM_{2.5} NAAQS

* * * * *

(b) * * *

Equation 2

$$\bar{X}_y = \frac{1}{n_{Q,y}} \sum_{q=1}^{n_{Q,y}} \bar{X}_{q,y}$$

Where:

\bar{X}_y = the annual mean concentration for year y ($y = 1, 2$, or 3);

$n_{Q,y}$ = the number of complete quarters Q in year y ; and

$\bar{X}_{q,y}$ = the mean for quarter q of year y (result of equation 1).

* * * * *

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R03-OAR-2015-0539; FRL-9950-29-Region 3]

Approval and Promulgation of Air Quality Implementation Plans; West Virginia; Prevention of Significant Deterioration and Approval of Infrastructure State Implementation Plans for Specific National Ambient Air Quality Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a State Implementation Plan (SIP) revision submitted by the West Virginia Department of Environmental Protection (WVDEP) for the State of West Virginia on June 3, 2015. This revision pertains to West Virginia's Prevention of

Significant Deterioration (PSD) permit program regulations for preconstruction permitting requirements for major sources. The revision includes a change in West Virginia's PSD regulations related to emissions of fine particulate matter (PM_{2.5}). The State's June 3, 2015 submittal satisfies its obligations pursuant to an earlier rulemaking in which EPA granted final conditional approval of West Virginia's PSD implementing regulations. This action also addresses specific infrastructure program elements specified in Clean Air Act (CAA) section 110(a)(2) necessary to implement, maintain, and enforce several national ambient air quality standards (NAAQS). This action is being taken under the CAA.

DATES: This final rule is effective on September 12, 2016.

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA-R03-OAR-2015-0539. All documents in the docket are listed in the www.regulations.gov Web site. Although listed in the electronic docket, some information is not publicly available, *i.e.*, 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 www.regulations.gov or may be viewed during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the West Virginia Department of Environmental Protection, Division of Air Quality, 601 57th Street SE., Charleston, West Virginia 25304.

FOR FURTHER INFORMATION CONTACT: Mr. Paul Wentworth, (215) 814-2183, or by email at Wentworth.paul@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On January 11, 2016 (81 FR 1133), EPA published a notice of proposed rulemaking (NPR) for the State of West Virginia. In the NPR, EPA proposed approval of a revision to West Virginia's PSD permit program regulations for preconstruction permitting requirements for major sources. The revision includes revised West Virginia PSD regulations related to emissions of PM_{2.5}. The formal SIP revision was submitted by the State of West Virginia on June 3, 2015.

II. Summary of SIP Revision

The SIP revision submitted by WVDEP on June 3, 2015 pertains to revisions to its PSD permit program regulations at 45CSR14-16.7.c that establish a significant monitoring concentration (SMC) value of zero micrograms per cubic meter for PM_{2.5}. The submission of this revision allows EPA to change its conditional approval of 45CSR14 to a full approval. Because this submission fulfills the commitment made by West Virginia in the final conditional approval of West Virginia's earlier submittals of revisions to 45CSR14 as discussed in the NPR, EPA is now fully approving West Virginia's PSD regulations at 45CSR14 in its entirety as 45CSR14 meets requirements in the CAA and its implementing regulations and removing the prior conditional approval. *See* 80 FR 36483 (final conditional approval of prior SIP submissions of revisions to 45CSR14).

With its submittal, West Virginia has made all of the changes to its PSD implementing regulations necessary to address PM_{2.5} as prescribed by the CAA, 40 CFR 51.166, and the May 16, 2008 new source review implementation rule for PM_{2.5} at 73 FR 28321. Because West Virginia's regulations at 45CSR14 fully meet the federal requirements for PSD in the CAA, EPA also found that West Virginia's PSD program now addresses specific PSD-related portions of the infrastructure program elements in section 110(a)(2) of the CAA for the 1997 ozone and PM_{2.5} NAAQS, the 2006 PM_{2.5} NAAQS, the 2008 lead and ozone NAAQS, and the 2010 nitrogen dioxide (NO₂) and sulfur dioxide (SO₂) NAAQS. Other specific requirements of and the rationale for EPA's approval action of West Virginia's revised PSD regulations and relevant infrastructure SIP revisions for several NAAQS are explained in the NPR and will not be restated here. No public comments were received on the NPR.

III. Final Action

EPA is approving this SIP revision submitted by WVDEP as a revision to the West Virginia SIP for its PSD program and removing a prior conditional approval on the PSD program. In this action, EPA is also approving several of West Virginia's infrastructure SIP revisions as meeting the PSD elements of section 110(a)(2) of the CAA for the 1997 ozone and PM_{2.5} NAAQS, the 2006 PM_{2.5} NAAQS, the 2008 lead and ozone NAAQS, and the 2010 NO₂ and SO₂ NAAQS.