

- 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 this action does not involve technical standards; 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, this proposed rule revising the New York SIP to incorporate changes to 6 NYCRR part 230 and Table 1 in 6 NYCRR 200.9 is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the 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 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Volatile organic compounds, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements.

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

Lisa Garcia,

Regional Administrator, Region 2.

[FR Doc. 2022–23019 Filed 10–31–22; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52 and Part 81

[EPA–R09–OAR–2022–0815; FRL–10250–01–R9]

Finding of Failure To Attain and Reclassification as Serious Nonattainment for the 2012 Annual Fine Particulate Standard: Plumas County, California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to determine that the Plumas County nonattainment area failed to attain the 2012 annual fine particulate matter (“PM_{2.5}”) national

ambient air quality standard (NAAQS or “standard”) by the December 31, 2021 “Moderate” area attainment date. This proposed determination is based on ambient air quality monitoring data from 2019 through 2021. If the EPA finalizes this determination as proposed, then Clean Air Act (CAA or “Act”) section 188(b)(2) requires that the nonattainment area be reclassified to Serious by operation of law. Within 18 months from the effective date of a reclassification to Serious, the State must submit a revision to its State Implementation Plan (SIP) that complies with the statutory and regulatory requirements for Serious PM_{2.5} nonattainment areas.

DATES: Any comments must arrive by December 1, 2022.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R09–OAR–2022–0815 at <https://www.regulations.gov>. For comments submitted at [Regulations.gov](https://www.regulations.gov), follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from [Regulations.gov](https://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, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>. If you need assistance in a language other than English or if you are a person with disabilities 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: Michael Dorantes, Air Planning Office (AIR–2), EPA Region IX, (415) 972–3934, dorantes.michael@epa.gov.

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

Table of Contents

I. Background and Regulatory Context
A. The 2012 Annual PM _{2.5} National Ambient Air Quality Standard
B. Clean Air Act Requirements for PM _{2.5} Nonattainment Areas
C. Plumas County Designation for the 2012 PM _{2.5} NAAQS and State Implementation Plan Requirements
II. Proposed Determination and Associated Rationale
A. Applicable Statutory and Regulatory Provisions
B. Monitoring Network Review, Quality Assurance, and Data Completeness
C. The EPA’s Evaluation of Attainment
III. Reclassification as Serious Nonattainment and Serious Area SIP Requirements
A. Reclassification as Serious and Applicable Attainment Date
B. Clean Air Act Requirements for Serious Area Plans
IV. Summary of Our Proposed Action
V. Statutory and Executive Order Reviews

I. Background and Regulatory Context

A. The 2012 Annual PM_{2.5} National Ambient Air Quality Standard

Under section 109 of the Clean Air Act, the EPA has established NAAQS for certain pervasive air pollutants (referred to as “criteria pollutants”) and conducts periodic reviews of the NAAQS to determine whether they should be revised or whether new NAAQS should be established. The EPA established these standards after considering substantial evidence from numerous health studies demonstrating that serious adverse health effects are associated with exposures to these criteria pollutants.¹

Particulate matter includes particles with diameters that are generally 2.5 microns or smaller (PM_{2.5}), and particles with diameters that are generally 10 microns or smaller (PM₁₀). PM_{2.5} can be emitted by sources directly into the atmosphere as a solid or liquid particle (“primary PM_{2.5}” or “direct PM_{2.5}”) or can be formed in the atmosphere (“secondary PM_{2.5}”) as a result of various chemical reactions among precursor pollutants such as nitrogen oxides (NO_x), sulfur dioxide (SO₂), volatile organic compounds (VOC), and ammonia (NH₃).²

Epidemiological studies have shown statistically significant correlations between elevated PM_{2.5} levels and detrimental effects to human health and

¹ For a given air pollutant “primary” NAAQS are those determined by the EPA as requisite to protect the public health, allowing an adequate margin of safety, and “secondary” standards are those determined by the EPA as requisite to protect the public welfare from any known or anticipated adverse effects associated with the presence of such air pollutant in the ambient air. See CAA section 109(b).

² 80 FR 15340, 15342 (March 23, 2015).

the environment. The health effects associated with PM_{2.5} exposure include changes in lung function resulting in the development of respiratory symptoms, aggravation of existing respiratory conditions, and cardiovascular disease (as indicated by increased hospital admissions, emergency room visits, absences from school or work, and restricted activity days), and premature mortality. Individuals particularly sensitive to PM_{2.5} exposure include older adults, people with heart and lung disease, and children.³ Elevated PM_{2.5} levels also have adverse secondary effects such as visibility impairment and damage to vegetation and ecosystems.

On July 18, 1997, the EPA first established annual and 24-hour NAAQS for PM_{2.5}.⁴ The annual primary and secondary standards were set to 15.0 micrograms per cubic meter (µg/m³) based on a 3-year average of annual mean PM_{2.5} concentrations. Then, on January 15th, 2013, in order to provide increased protection of public health, the EPA promulgated a more stringent annual PM_{2.5} NAAQS, revising the primary standard to 12.0 µg/m³ based on a 3-year average of annual mean PM_{2.5} concentrations, while retaining the secondary standard at 15.0 µg/m³.⁵

B. Clean Air Act Requirements for PM_{2.5} Nonattainment Areas

The CAA requires states to develop a SIP that provides generally for the attainment, maintenance, and enforcement of the NAAQS. In addition, the CAA requires states to make a specific type of SIP submittal, a nonattainment plan submittal, that imposes additional controls for purposes of attaining the PM_{2.5} NAAQS, to achieve reductions of PM_{2.5} and PM_{2.5} precursor emissions.

The general CAA part D nonattainment area planning requirements are found in subpart 1 and the nonattainment area planning requirements specific to particulate matter are found in subpart 4. The subpart 1 statutory requirements for attainment plans include the following: the section 172(c)(1) requirements for reasonably available control measures (RACM)/reasonably available control technology (RACT) and attainment

demonstrations; the section 172(c)(2) requirement to demonstrate reasonable further progress (RFP); the section 172(c)(3) requirement for emissions inventories; the section 172(c)(5) requirements for a nonattainment new source review (NNSR) permitting program; and the section 172(c)(9) requirement for contingency measures.

The more specific subpart 4 statutory requirements for Moderate PM_{2.5} nonattainment areas include the following: the section 189(a)(1)(A) NNSR permit program requirements; the section 189(a)(1)(B) requirements for attainment demonstrations; the section 189(a)(1)(C) requirements for RACM; the section 189(c) requirements for RFP and quantitative milestones; and the section 189(e) requirement for controls on sources of particulate matter precursors.

Under subpart 4, states with Moderate PM_{2.5} nonattainment areas must provide for attainment in the area as expeditiously as practicable but no later than the end of the sixth calendar year after designation. For the 2012 PM_{2.5} annual NAAQS, this date is December 31, 2021. In addition, under subpart 4, direct PM_{2.5} and all precursors to the formation of PM_{2.5} are subject to control unless the EPA approves a demonstration from the state establishing that a given precursor does not contribute significantly to PM_{2.5} levels that exceed the PM_{2.5} NAAQS in the area.⁶

To implement the PM_{2.5} NAAQS, the EPA has also promulgated the “Fine Particle Matter National Ambient Air Quality Standard: State Implementation Plan Requirements; Final Rule” (“PM_{2.5} Implementation Rule”).⁷ The PM_{2.5} Implementation Rule provides additional regulatory requirements and guidance applicable to attainment plan submittals for the PM_{2.5} NAAQS, including the 2012 annual PM_{2.5} NAAQS at issue in this action.

C. Plumas County Designation for the 2012 PM_{2.5} NAAQS and State Implementation Plan Requirements

Following promulgation of new or revised NAAQS, the EPA is required under CAA section 107(d) to designate regions throughout the nation as attaining or not attaining these NAAQS. Those regions found not to be attaining the NAAQS are also given a classification that describes the degree of nonattainment. Under subpart 4 of part D of title I of the CAA, the EPA designates areas found to be violating the PM_{2.5} NAAQS, and areas that contribute to such violations, as

nonattainment and classifies them initially as Moderate nonattainment areas.

Effective January 15, 2015, the EPA designated a portion of Plumas County as a Moderate nonattainment area (“Portola nonattainment area”) for the 2012 PM_{2.5} NAAQS based on ambient monitoring data that showed the area was above the 12.0 µg/m³ primary standard for the 3-year 2011–2013 monitoring period.⁸ For this 2011–2013 monitoring period, the annual PM_{2.5} design value⁹ for the Portola nonattainment area was 12.8 µg/m³ from readings at the Portola PM_{2.5} monitoring site.¹⁰

This Moderate nonattainment designation and classification required the state of California to submit an attainment plan for the Portola nonattainment area, in accordance with the requirements of CAA sections 172(c) and 189(a), (c), and (e), demonstrating attainment of the NAAQS as expeditiously as practical but no later than the end of the sixth calendar year following the designation, or December 31, 2021, which is the latest permissible attainment date under CAA section 188(c)(2).

Under state law, the local air district with the primary responsibility for developing a plan to attain the 2012 annual PM_{2.5} NAAQS in this area is the Northern Sierra Air Quality Management District (NSAQMD or “District”). The District worked with the California Air Resources Board (CARB) in preparing the plan. On February 28, 2017, California submitted the “Portola Fine Particulate Matter (PM_{2.5}) Attainment Plan” (“Portola PM_{2.5} Plan”) to address the CAA’s Moderate nonattainment area requirements for the 2012 annual PM_{2.5} NAAQS. On March 25, 2019, the EPA fully approved the Portola PM_{2.5} Plan, except for the contingency measure elements.¹¹ California later submitted a revision to Portola PM_{2.5} Plan (“PM_{2.5} Plan Revision”), which included a contingency measure adopted in an ordinance by the City of Portola.

On April 2, 2021, the EPA took final action to approve the PM_{2.5} Plan

⁸ 80 FR 2206 (January 15, 2015).

⁹ A design value is the 3-year average NAAQS metric that is compared to the NAAQS level to determine when a monitoring site meets or does not meet the NAAQS. The specific methodologies for calculating whether the annual PM_{2.5} NAAQS is met at each eligible monitoring site in an area are found in 40 CFR part 50, Appendix N, section 4.1.

¹⁰ From 2000 through early 2013, the Portola PM_{2.5} monitoring site was located at 161 Nevada Street. In 2013, the site was relocated to 420 Gulling Street where it remains to date.

¹¹ 84 FR 11208 (March 25, 2019).

³ EPA, Air Quality Criteria for Particulate Matter, No. EPA/600/P-99/002aF and EPA/600/P-99/002bF, October 2004.

⁴ 62 FR 38652 (July 18, 1997). In October 2006, the EPA lowered the 24-hour NAAQS for PM_{2.5} from 65 micrograms per cubic meter (µg/m³) to 35 µg/m³. 71 FR 61144 (October 17, 2006).

⁵ 78 FR 3086 (January 15, 2013) and 40 CFR 50.18. Unless otherwise noted, all references to the PM_{2.5} NAAQS in this document are to the 2012 annual NAAQS of 12.0 µg/m³, codified at 40 CFR 50.18.

⁶ 40 CFR 51.1006 and 51.1009.

⁷ 81 FR 58010 (August 24, 2016).

Revision.¹² We also found that the contingency measure element of the Portola PM_{2.5} Plan, as revised and supplemented by the Proposed PM_{2.5} Plan Revision, satisfied the requirements for contingency measures in CAA section 172(c)(9) and 40 CFR 51.1014 for purposes of the 2012 PM_{2.5} NAAQS in the Portola nonattainment area.¹³

II. Proposed Determination and Associated Rationale

A. Applicable Statutory and Regulatory Provisions

Sections 179(c)(1) and 188(b)(2) of the CAA require the EPA to determine whether a PM_{2.5} nonattainment area attained by the applicable attainment date, based on the area's air quality "as of the attainment date." Generally, this determination of whether an area's air quality meets the PM_{2.5} standard(s) is based upon the most recent three years of complete, certified data gathered at eligible monitoring sites in accordance with 40 CFR part 58.¹⁴ The requirements of 40 CFR part 58 include quality assurance procedures for monitor operation and data handling, siting parameters for instruments or instrument probes, and minimum ambient air quality monitoring network requirements. State, local, or tribal agencies operating air monitoring sites, in accordance with 40 CFR part 58, must enter the ambient air quality data and associated quality assurance data from these sites into the EPA's Air Quality System (AQS) database.¹⁵ These monitoring agencies certify annually that these data are accurate to the best of their knowledge, taking into consideration the quality assurance findings.¹⁶ Accordingly, the EPA relies primarily on AQS data when determining the attainment status of an area. In determining whether data are suitable for regulatory determinations, the EPA uses a "weight of evidence" approach, considering the requirements of 40 CFR part 58, Appendix A "in combination with other data quality information, reports, and similar documentation that demonstrate overall compliance with Part 58."¹⁷

The 2012 primary annual PM_{2.5} standard is met when the three year average of the annual arithmetic mean concentration, as determined in accordance with 40 CFR part 50 appendix N, is less than or equal to 12.0 µg/m³ at each eligible monitoring site.¹⁸ For the annual PM_{2.5} standard, eligible monitoring sites are those monitoring stations that meet the criteria specified in 40 CFR 58.11 and 58.30, and thus are approved for comparison to the annual PM_{2.5} NAAQS.¹⁹ Three years of valid annual means are required to produce a valid annual PM_{2.5} NAAQS design value.²⁰ Data completeness requirements for a given year are met when at least 75 percent of the scheduled sampling days for each quarter have valid data.²¹

B. Monitoring Network Review, Quality Assurance, and Data Completeness

CARB is the governmental agency with the primary authority and responsibility under the State's laws for collecting ambient air quality data for the Portola nonattainment area. The Portola monitoring site (AQS ID: 06-063-1010) is the only regulatory PM_{2.5} monitoring site in the Portola nonattainment area and is operated by CARB. CARB submits annual monitoring network plans to the EPA documenting the status of CARB's air monitoring network, as required under 40 CFR 58.10.²² The EPA reviews these annual network plans for compliance with specific requirements in 40 CFR part 58. With respect to the Portola nonattainment area, we have found that the annual network plans submitted by CARB meet these requirements under 40 CFR part 58, including minimum monitoring requirements.²³

In accordance with 40 CFR 58.15, CARB certifies annually that the previous year's ambient concentration and quality assurance data are completely submitted to AQS and that the ambient concentration data are accurate, taking into consideration the quality assurance findings.²⁴ Along with the certification letters, CARB submits a summary of the precision and accuracy data for all ambient air quality data.²⁵

The Design Value Report also includes a validity indicator that reflects

whether the design value is valid (*i.e.*, calculated using data that meet the applicable completeness criteria). For the purposes of this proposal, we reviewed the data for the 2019–2021 period for completeness and determined that the PM_{2.5} data collected by CARB met the 75 percent completeness criterion for all 12 quarters at the Portola monitoring site.

Finally, the EPA conducts regular technical systems audits (TSAs) where we review and inspect state and local ambient air monitoring programs to assess compliance with applicable regulations concerning the collection, analysis, validation, and reporting of ambient air quality data. For the purposes of this proposal, we reviewed the findings from the EPA's 2018 TSA of CARB's ambient air monitoring program.²⁶ None of the findings from the 2018 TSA were cause for invalidation of any data from the Portola PM_{2.5} monitoring site.²⁷

In summary, based on the relevant monitoring network plans, certifications, and 2018 TSA, we propose to find that the PM_{2.5} data collected at the Portola monitoring site are suitable for determining whether the Portola nonattainment area attained the 2012 annual PM_{2.5} NAAQS by the applicable attainment date.

C. The EPA's Evaluation of Attainment

Table 1 provides the 2021 PM_{2.5} design value from the regulatory monitor within the Portola nonattainment area, expressed as a single design value representing the average of the annual mean values from the 2019–2021 period; the annual mean for each individual year is also listed. The PM_{2.5} data show that the design value at the Portola monitoring site was 16.5 µg/m³, which exceeds the 2012 annual PM_{2.5} NAAQS of 12.0 µg/m³. Consequently, the EPA proposes to determine based upon three years of complete, quality-assured and certified data from 2019 through 2021, that the Portola nonattainment area did not attain the 2012 annual PM_{2.5} NAAQS by the applicable attainment date of December 31, 2021.

¹² 86 FR 12263 (March 3, 2021).

¹³ *Id.*

¹⁴ 40 CFR part 50, Appendix N, section 3.0.

¹⁵ 40 CFR 58.16. AQS is the EPA's national repository of ambient air quality data.

¹⁶ 40 CFR 58.15(a).

¹⁷ 40 CFR part 58, Appendix A, section 1.2.3.

¹⁸ 40 CFR 50.18(b); 40 CFR part 50, Appendix N, section 4.1(a).

¹⁹ 40 CFR part 50, Appendix N, section 1.0(c).

²⁰ 40 CFR part 50, Appendix N, section 4.1(b).

²¹ *Id.*

²² We have included copies of CARB's annual monitoring network plans for 2019–2021 in our docket.

²³ We have included our reviews of CARB's annual monitoring network plans and the correspondence transmitting these reviews in our docket.

²⁴ We have included CARB's annual data certifications for 2019, 2020, and 2021 in our docket.

²⁵ See 40 CFR 58.15(c).

²⁶ EPA Region 9, Technical Systems Audit of the Ambient Air Monitoring Program: California Air Resources Board, September–December 2018 (Final Report dated January 2020).

²⁷ *Id.*

TABLE 1—2019–2021 ANNUAL PM_{2.5} DESIGN VALUE FOR THE PORTOLA NONATTAINMENT AREA

Monitoring site	AQS site ID #	Annual weighted mean (µg/m ³)			2019–2021 annual design value (µg/m ³)
		2019	2020	2021	
Portola	06–063–1010	12.2	20.9	16.5	16.5

Source: EPA AQS Design Value Report, AMP480, dated August 10, 2022. (User ID: JCARLSTAD, Report Request ID: 2039270).

III. Reclassification as Serious Nonattainment and Serious Area SIP Requirements

A. Reclassification as Serious and Applicable Attainment Date

In accordance with section 188(b)(1) of the Act, the EPA is proposing to reclassify the Portola nonattainment area from Moderate to Serious for the 2012 annual PM_{2.5} standard, based on the determination that the area did not attain the standard by the applicable attainment date.

Under section 188(c)(2) of the Act, the attainment date for a Serious area “shall be as expeditiously as practicable but no later than the end of the tenth calendar year beginning after the area’s designation as nonattainment . . .” The EPA designated Plumas County as nonattainment for the 2012 PM_{2.5} NAAQS effective January 15, 2015. Therefore, upon reclassification to Serious, the latest permissible attainment date under section 188(c)(2) of the Act for the purposes of the 2012 PM_{2.5} NAAQS in the Portola nonattainment area, will be December 31, 2025.

Under section 188(e) of the Act, a state may apply to the EPA for a single extension of the Serious area attainment date of up to five additional years, which the EPA may grant if the state satisfies certain statutory conditions. Before the EPA may extend the attainment date for a Serious area under section 188(e), the state must: (1) Apply for an extension of the attainment date beyond the statutory attainment date; (2) demonstrate that attainment by the statutory attainment date is impracticable; (3) demonstrate that it has complied with all requirements and commitments pertaining to the area in the implementation plan; (4) demonstrate to the satisfaction of the Administrator that the plan for the area includes the most stringent measures that are included in the implementation plan of any state or are achieved in practice in any state, and can feasibly be implemented in the area; and (5) submit a demonstration of attainment by the most expeditious alternative date practicable.

B. Clean Air Act Requirements for Serious Area Plans

Upon reclassification of the Portola nonattainment area to Serious for the 2012 PM_{2.5} NAAQS, California will be required to submit an additional SIP revision to satisfy the statutory requirements that apply to Serious PM_{2.5} nonattainment areas, including the requirements of subpart 4 of part D, title I of the Act and 40 CFR part 51, subpart Z. Pursuant to CAA section 189(b)(2), this SIP revision will be due 18 months from the effective date of the final reclassification to Serious.

The Serious area SIP elements that California will be required to submit are as follows:

1. Provisions to assure that the best available control measures, including the best available control technology for stationary sources, for the control of direct PM_{2.5} and PM_{2.5} precursors shall be implemented no later than four years after the area is reclassified (CAA section 189(b)(1)(B));
2. a demonstration (including air quality modeling) that the plan provides for attainment as expeditiously as practicable but not later than December 31, 2025, or where the state is seeking an extension of the attainment date under section 188(e), a demonstration that attainment by December 31, 2025 is impracticable and that the plan provides for attainment by the most expeditious alternative date practicable and not later than December 31, 2030 (CAA sections 189(b)(1)(A), 188(c)(2), and 188(e));
3. plan provisions that require RFP (CAA section 172(c)(2));
4. quantitative milestones that are to be achieved every three years until the area is redesignated to attainment and that demonstrate RFP toward attainment by the applicable date (CAA section 189(c));
5. provisions to assure that control requirements applicable to major stationary sources of PM_{2.5} also apply to major stationary sources of PM_{2.5} precursors, except where the state demonstrates to the EPA’s satisfaction that such sources do not contribute significantly to PM_{2.5} levels that exceed the standard in the area (CAA section 189(e));
6. a comprehensive, accurate, current inventory of actual emissions from all

sources of PM_{2.5} and PM_{2.5} precursors in the area (CAA section 172(c)(3));

7. contingency measures to be implemented if the area fails to meet RFP (including quantitative milestones and related reports) or to attain by the applicable attainment date (CAA section 172(c)(9)); and

8. a revision to the NNSR program to lower the applicable “major stationary source”²⁸ thresholds from 100 tpy to 70 tpy (CAA section 189(b)(3)) and to satisfy the subpart 4 requirements for major stationary sources of PM_{2.5} precursors (CAA section 189(e)).

IV. Summary of Our Proposed Action

In accordance with section 188(b)(2) of the CAA, the EPA is proposing to determine that the Portola Moderate nonattainment area did not attain the 2012 annual PM_{2.5} NAAQS by its applicable attainment date of December 31, 2021. Our proposed determination that the Portola nonattainment area failed to attain the PM_{2.5} NAAQS is based on complete, quality-assured, and certified PM_{2.5} monitoring data for the 2019–2021 period.

If we finalize our action as proposed, the Portola nonattainment area will be reclassified as a Serious PM_{2.5} nonattainment area by operation of law pursuant to CAA section 188(b)(2) and will be subject to all applicable Serious area requirements, as outlined in section III.B. Under CAA sections 188(c)(2), the Serious area attainment date for the Portola nonattainment area will be as expeditiously as practicable but no later than December 31, 2025, ten years after the area’s designation to nonattainment.

The EPA is soliciting public comments on the issues discussed in this document. We will accept comments from the public on this proposal until December 1, 2022 and will consider comments before taking final action.

V. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be

²⁸ For any Serious area, the terms “major source” and “major stationary source” include any stationary source that emits or has the potential to emit at least 70 tpy of PM₁₀ (CAA sections 189(b)(3)).

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 therefore was 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 will not impose any requirements on small entities. This proposed action, if finalized, would require the state to adopt and submit SIP revisions to satisfy CAA requirements and would 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 proposes to determine that the Portola nonattainment area failed to attain the NAAQS by the applicable attainment date. If finalized, this determination would trigger 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, Consultation and 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 the Portola nonattainment area,²⁹ the proposed finding of failure to attain the 2012 annual PM_{2.5} NAAQS does not apply to tribal areas, and the proposed 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 the Portola nonattainment area. Thus, this proposed 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.

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 proposed action is not subject to Executive Order 13045 because the effect of this proposed action, if finalized, would be to trigger additional planning requirements under the CAA. This proposed 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 proposed 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 establishes federal executive policy on environmental justice. Its main provision 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 and low-income populations in the United States. 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.

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Particulate matter, Reporting and recordkeeping requirements.

40 CFR Part 81

Environmental protection, Administrative practice and procedure, Air pollution control, Designations and classifications, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

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

Dated: October 19, 2022.

Martha Guzman Aceves,

Regional Administrator, Region IX.

[FR Doc. 2022–23344 Filed 10–31–22; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Parts 422, 423, 438, and 498

[CMS–4185–RCN2]

RIN 0938–AT59

Medicare and Medicaid Programs; Policy and Technical Changes to the Medicare Advantage, Medicare Prescription Drug Benefit, Program of All-Inclusive Care for the Elderly (PACE), Medicaid Fee-For-Service, and Medicaid Managed Care Programs for Years 2020 and 2021; Extension of Timeline To Finalize a Rulemaking

AGENCY: Centers for Medicare & Medicaid Services (CMS), Department of Health and Human Services (HHS).

ACTION: Extension of timeline for publication of final rule.

SUMMARY: The Social Security Act (the Act) requires us to publish a Medicare final rule no later than 3 years after the publication date of the proposed rule. This document announces an additional 3 month extension of the timeline for publication of a Medicare final rule in

²⁹ Map of Federally-Recognized Tribes in EPA’s Pacific Southwest (Region 9) is available at <https://www.epa.gov/tribal-tribal-pacific-sw/map-federally-recognized-tribes-epas-pacific-southwest-region-9>.