

for the identification and cross-track mapping of features of archaeological potential (e.g., shell middens, paleochannels, levees, inset terraces, paleolagoon systems). The sub-bottom profiler system employed must be capable of achieving a resolution of vertical bed separation of at least 0.3 meters (1 foot) in the uppermost 10 to 15 meters (33 to 50 feet) of sediments, depending on the substrate.

(4) In all water depths, a side-scan sonar or equivalent system must be used to provide continuous planimetric imagery of the seafloor to identify potential archaeological resources partly embedded in the seafloor. To provide sufficient resolution of seafloor features, BOEM requires the use of a system that operates at as high a frequency as practicable based on the factors of line spacing, instrument range, and water depth. The sonar system must resolve small, discrete targets 0.5 meters (1.6 feet) in length at maximum range. The instrument range must provide at least 100 percent overlapping coverage (i.e., 200 percent seafloor coverage) between adjacent primary survey lines. Greater than 200 percent overlapping coverage may be necessary to guarantee nadir coverage and account for survey vessel drift between lines, which may be an important consideration when surveying in deep water. The side-scan sonar sensor must be towed above the seafloor at a height that is 10 to 20 percent of the range of the instrument. Data must be digitally recorded and visually displayed to monitor data quality and identify targets of interest during acquisition. The data must be post-processed to improve data quality by, for example, adjusting for slant range effects and variable speed along line.

(d) The Regional Director may approve a departure from the provisions of paragraph (c) of this section on a case-by-case basis if the Regional Director deems the departure necessary because the applicable requirements, as applied to a specific circumstance:

- (1) are impractical or unduly burdensome;
 - (2) are not necessary to achieve the intended objectives of the marine archaeology program;
 - (3) fail to conserve the natural resources of the OCS;
 - (4) fail to protect life (including human and wildlife), property, or the marine, coastal, or human environment; or
 - (5) fail to protect sites, structures, or objects of historical or archaeological significance.
- (e) Any departure approved under this section must:

(1) be consistent with requirements of the OCS Lands Act;

(2) protect the archeological resources to the same degree as if there was no approved departure from the regulations;

(3) satisfy section 106 of the National Historic Preservation Act and achieve results for identifying archaeological resources as if there was no approved departure from the regulations;

(4) not impair the rights of third parties; and

(5) be documented in writing.

(f) BOEM may reject any archeological report if the survey was not prepared in accordance with the requirements of paragraph (c) of this section or any BOEM-approved departure to the survey requirements. BOEM may also reject any archeological report if the results produced from the survey do not meet the data and resolution requirements specified under paragraph (c) of this section, regardless of whether the survey was otherwise conducted appropriately.

(g) If the archaeological report or evidence mentioned in paragraph (a) of this section suggests that an archaeological resource may be present, you must:

(1) situate your operations so as not to adversely affect the area where the known or suspected archaeological resource may be located; or,

(2) establish, to the satisfaction of the Regional Director that an archaeological resource does not exist by conducting further archaeological investigation, under the supervision of a qualified marine archaeologist, using equipment and techniques the Regional Director considers appropriate. You must submit a report documenting the further investigation to the Regional Director for review; or,

(i) if the further investigation cannot establish to the satisfaction of the Regional Director that an archeological resource it is not likely to be present at the operational site, you must demonstrate to the satisfaction of the Regional Director that your operations will not adversely affect the suspected resource; or,

(ii) if, based on the additional archaeological investigation, the Regional Director determines that an archaeological resource is likely to be present in the operational site and may be adversely affected by operations, you must take whatever additional steps are specified by the Regional Director to protect the archaeological resource before you conduct any further operations at the operational site; or,

(3) if the Regional Director determines that an archaeological resource is likely

to be present in the lease area, that it is likely to be adversely affected by your operations, and that there are no feasible means to avoid this adverse effect, the Regional Director may prohibit your operations in the APE.

■ 4. Add § 550.195 to read as follows:

§ 550.195 What must I do if I discover a potential archeological resource while conducting operations on the lease or right-of-way area?

(a) If you discover any unanticipated archaeological resource while conducting operations on the lease or right-of-way area, you must immediately halt seafloor disturbing operations within at least 305 meters (1,000 feet) of the area of the discovery and report the discovery to the Regional Director within 72 hours.

(b) If BOEM determines that the resource may be eligible for listing on the National Register of Historic Places in accordance with the applicable regulations, the Regional Director will specify measures you must take to protect the resource during operations and activities.

(c) For activities and operations under BSEE jurisdiction, BOEM will refer the discovery to BSEE to determine if the resource may have been adversely impacted by your operations and activities prior to or during its discovery in paragraph (a) of this section. The Regional Director of BSEE will specify measures you must take to either demonstrate that no adverse impacts have occurred or to document the extent of adverse impacts that have occurred. BSEE may further specify measures you must take to remediate adverse impacts resulting from your operations and activities and will relay to BOEM both the results of its investigation and any further measures it has imposed to remediate the adverse impacts that may have occurred.

[FR Doc. 2023-02903 Filed 2-14-23; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2023-0035; FRL-10594-01-R9]

Finding of Failure To Attain the 1987 24-Hour PM₁₀ Standards; Pinal County, Arizona

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to determine

that the West Pinal County, Arizona nonattainment 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 (PM₁₀) by its December 31, 2022 “Serious” area attainment date. This proposal is based on the EPA’s calculation of the preliminary PM₁₀ design value for the nonattainment area over the 2020–2022 period. If the EPA makes a final determination that West Pinal County has failed to attain the PM₁₀ NAAQS by its attainment date, the State will be required to submit a revision to the Arizona state implementation plan (SIP) that, among other elements, provides for expeditious attainment of the PM₁₀ standards and for a five percent annual reduction in the emissions of direct PM₁₀ or a PM₁₀ plan precursor pollutant in the nonattainment area.

DATES: Any comments must arrive by March 17, 2023.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R09–OAR–2023–0035 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:** Ashley Graham, Air Planning Office

(AIR–2), EPA Region IX, 75 Hawthorne Street, San Francisco, CA 94105, (415) 972–3877, graham.ashleyr@epa.gov.

SUPPLEMENTARY INFORMATION:

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

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I. Background and Regulatory Context

A. The 1987 PM₁₀ NAAQS

The EPA sets the NAAQS for certain ambient air pollutants, including particulate matter, at levels required to protect public health and welfare. For a given air pollutant, “primary” NAAQS are those determined by the EPA as requisite to protect public health, allowing an adequate margin of safety, and “secondary” standards are those determined by the EPA as requisite to protect public welfare from any known or anticipated adverse effects associated with the presence of such air pollutant in the ambient air.¹ The EPA revised the primary and secondary NAAQS for particulate matter on July 1, 1987, replacing standards for total suspended particulates with annual and 24-hour standards.² An area attains the 24-hour PM₁₀ primary and secondary standards of 150 micrograms per cubic meter (µg/m³) when the expected number of days per calendar year with a 24-hour concentration exceeding the standards (referred to as an “exceedance”) over a three-year period is equal to or less than one.³ The annual PM₁₀ standards were revoked on October 17, 2006.⁴ Therefore, we refer herein to the 1987

¹CAA section 109(b).

²52 FR 24634.

³An exceedance is defined as a daily value that is above the level of the 24-hour standards, 150 µg/m³, after rounding to the nearest 10 µg/m³ (*i.e.*, values ending in five or greater are to be rounded up). Consequently, a recorded value of 154 µg/m³ would not be an exceedance because it would be rounded to 150 µg/m³; whereas, a recorded value of 155 µg/m³ would be an exceedance because it would be rounded to 160 µg/m³. See 40 CFR 50.6 and 40 CFR part 50, Appendix K, section 1.0.

⁴71 FR 61144.

24-hour PM₁₀ standards as the “PM₁₀ NAAQS.”

B. History of the West Pinal County Nonattainment Area

On May 31, 2012, the EPA designated a portion of state lands in Pinal County, Arizona (“West Pinal County”) as nonattainment for the 1987 PM₁₀ NAAQS based on 2006–2008 data.⁵ As a result of the nonattainment designation, West Pinal County was classified as a “Moderate” PM₁₀ nonattainment area with an attainment date of as expeditiously as practicable, but no later than December 31, 2018. The Arizona Department of Environmental Quality (ADEQ) submitted a SIP revision intended to meet Moderate PM₁₀ nonattainment requirements on December 21, 2015 (“2015 West Pinal Plan”).

On June 24, 2020, the EPA determined that West Pinal County did not attain the 1987 PM₁₀ NAAQS by December 31, 2018.⁶ Pursuant to 188(b)(2), the area was reclassified to “Serious” nonattainment with an attainment date of as expeditiously as practicable, but no later than December 31, 2022.⁷

On January 8, 2021, the EPA proposed to disapprove the 2015 West Pinal Plan.⁸ In response to the EPA’s January 8, 2021 proposal, on May 17, 2021, ADEQ withdrew the 2015 West Pinal Plan, with the exception of several rules and statutes that had been approved into the SIP in 2017.⁹ Consequently, the EPA did not finalize the actions proposed on January 8, 2021, with respect to the Moderate area plan requirements. Instead, on July 23, 2021, the EPA found that Arizona had failed to submit a plan to address these requirements.¹⁰

On May 31, 2022, ADEQ adopted and submitted the “2022 Serious Area Particulate Plan for PM–10 for the West Pinal County Nonattainment Area” (“2022 West Pinal Plan” or “Plan”),¹¹ as

⁵77 FR 32024. The boundaries for the West Pinal County PM₁₀ nonattainment area are described in 40 CFR 81.303.

⁶85 FR 37756.

⁷Id.

⁸86 FR 1347.

⁹Letter dated May 17, 2021, from Daniel Czecholinski, Director, Air Quality Division, ADEQ, to Deborah Jordan, Acting Regional Administrator, EPA Region IX, Subject: “RE: Withdrawal from EPA Consideration of the 2015 Arizona State Implementation Plan Revision: West Pinal County PM₁₀ Nonattainment Area.”

¹⁰86 FR 38928.

¹¹West Pinal PM₁₀ Plan, Appendix E, Exhibit 2, Resolution to Adopt the 2022 Serious Area Particulate Plan for PM–10 for the West Pinal County Nonattainment Area.

a revision to the Arizona SIP.¹² In addition to addressing the Moderate and Serious area plan requirements, the 2022 West Pinal Plan included a request for an extension of the December 31, 2022 attainment date pursuant to Clean Air Act (CAA) section 188(e). On November 30, 2022, the EPA issued a letter finding the 2022 West Pinal Plan complete under CAA section 110(k).¹³ However, the EPA has not approved the Plan or the attainment date extension request. Therefore, the maximum Serious area attainment date for West Pinal County remains December 31, 2022.

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 PM₁₀ 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 PM₁₀ standards is based upon the most recent three years of complete, certified data gathered at eligible monitoring sites in accordance with 40 CFR part 58.¹⁴ 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

¹² Letter dated May 31, 2022, from Daniel Czecholinski, Director, Air Quality Division, ADEQ, to Martha Guzman, Regional Administrator, EPA Region IX, Subject: "Arizona State Implementation Plan Revision, Maricopa Association of Governments 2022 Serious Area Particulate Plan for PM-10 for the West Pinal County Nonattainment Area."

¹³ Letter dated November 30, 2022, from Elizabeth J. Adams, Director, Air and Radiation Division, EPA Region IX, to Misael Cabrera, Director, ADEQ, Subject: "Completeness Finding for State Implementation Plan (SIP) Submission for West Pinal County for the 1987 PM₁₀ National Ambient Air Quality Standards (NAAQS) and Termination of Clean Air Act (CAA) Sanctions Clocks."

¹⁴ 40 CFR part 50, Appendix K, section 2.3(a).

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

¹⁶ 40 CFR 58.15(a).

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, and other documentation demonstrating overall compliance with part 58.¹⁷

Ambient air quality data must generally meet data completeness requirements for each year under consideration. The completeness requirements are met when at least 75 percent of the scheduled sampling days for each quarter have valid data.¹⁸ The data requirements for showing that a monitor has failed an attainment test, and thus recorded a violation of the PM₁₀ standards, are less stringent and the 75 percent data capture requirement does not apply provided there are sufficient data to unambiguously establish nonattainment of the standards.¹⁹

Ambient air quality data that meet the applicable requirements are used to calculate design values, which can be compared to the NAAQS. The expected number of exceedances averaged over a three-year period at any given monitor is known as the PM₁₀ design value for that site. The PM₁₀ design value for the nonattainment area is the highest design value from a monitor within that area. The methodologies for calculating expected exceedances for the PM₁₀ NAAQS are found in 40 CFR part 50, Appendix K, section 2.1(a).

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

The Pinal County Air Quality Control District ("Pinal County") is the governmental agency with the authority and responsibilities under the State's laws for collecting ambient air quality data for West Pinal County. Pinal County submits annual monitoring network plans to the EPA.²⁰ These plans discuss the status of the ambient air monitoring network, as required under 40 CFR part 58. The EPA reviews these annual network plans for compliance with specific requirements in 40 CFR part 58. With respect to PM₁₀, the EPA has found that the annual network plans submitted by Pinal County meet these requirements, including minimum monitoring requirements.²¹

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

¹⁸ 40 CFR part 50, Appendix K, section 2.3.

¹⁹ 40 CFR part 50, Appendix K, section 2.3(a).

²⁰ We have included Pinal County's annual monitoring network plans for the relevant years in the docket for this action.

²¹ We have included the EPA's letters acting on Pinal County's annual monitoring network plans in the docket for this action.

In accordance with 40 CFR 58.15, Pinal County 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.²² Along with the certification letters, Pinal County submits a summary of the precision and accuracy data for all ambient air quality data.²³ The deadlines for submission of quarter 4 (October through December) data and certification of the 2022 data have not yet passed and these data have not yet been submitted and certified. The 2022 data are therefore considered incomplete and preliminary at the time of this proposal. However, we do not expect the final certified data to differ significantly from the data reflected in this proposal. Moreover, even if the 2022 data were to differ significantly from the preliminary data, the end result would be the same, as explained further in section II.C of this proposal.

The EPA AQS Design Value Report 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 2020–2022 period for completeness and determined that, with the exception of the 2022 quarter 4 data that have not yet been submitted to AQS, the PM₁₀ data collected by Pinal County meet the 75 percent completeness criterion at the relevant monitoring sites.

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 2019 TSA of Pinal County's ambient air monitoring program.²⁴ None of the findings from the 2019 TSA were cause for invalidation of any data from the relevant monitors.²⁵

²² We have included Pinal County's annual data certifications for 2020 and 2021 in the docket for this action.

²³ See 40 CFR 58.15(c).

²⁴ EPA Region IX, Technical Systems Audit of the Ambient Air Monitoring Program: Pinal County Air Quality Control District, April 1–3, 2019 (Final Report dated September 2019).

²⁵ Id. We note that in September 2022, the EPA conducted a subsequent TSA for Pinal County. We have not yet completed the report summarizing the findings from the September 2022 TSA; however, based on our preliminary review, none of the findings would affect our proposed determination herein that the West Pinal County area did not

In summary, based on the relevant monitoring network plans, certifications, and 2019 TSA, we propose to find that the PM₁₀ data collected at the West Pinal monitoring sites are suitable for determining whether West Pinal County attained the PM₁₀ NAAQS by the applicable attainment date.

C. The EPA's Evaluation of Attainment

Table 1 provides the estimated number of PM₁₀ exceedances in each of the years 2020–2022, and preliminary

2022 p.m.₁₀ 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 PM₁₀ within West Pinal County. As discussed in section II.B, 2022 quarter 4 data are not yet available in AQS; thus, those data are not reflected in the table. The PM₁₀ data show that the design values at multiple monitoring sites are greater than 1.0 estimated annual average exceedance of the 1987 24-hour PM₁₀ NAAQS. Moreover, while

preliminary 2022 data in AQS indicate exceedances at several sites (as shown in Table 1), even if there were zero exceedances in 2022, the 2020–2022 design value would exceed 1.0 at multiple monitoring sites. Consequently, the EPA proposes to determine, based upon complete and quality-assured 2020 and 2021 data and preliminary 2022 data, that West Pinal County did not attain the 1987 24-hour PM₁₀ NAAQS by the applicable attainment date of December 31, 2022.

TABLE 1—2020–2022 PM₁₀ ESTIMATED EXCEEDANCES FOR THE WEST PINAL NONATTAINMENT AREA

Monitoring site	AQS site ID #	PM ₁₀ 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 January 5, 2023. (User ID: JCARLSTAD, Report Request ID: 2069517).
 * PM₁₀ estimated exceedances for 2022 reflect quarters 1–3 (i.e., January–September) only. The deadline for submitting 2022 quarter 4 data to AQS is March 31, 2023. Thus, at the time this proposal was being developed, the deadline for submitting quarter 4 (October–December) data had not yet passed and these data had not yet been submitted to AQS.

III. Consequences for a Serious PM₁₀ Nonattainment Area Failing To Attain the Standards by the Attainment Date

The consequences for a Serious PM₁₀ nonattainment area for failing to attain the standards by the applicable attainment date are set forth in CAA sections 179(d) and 189(d). Under section 179(d), a state must submit a SIP revision for the area meeting the requirements of CAA sections 110 and 172, the latter of which requires, among other elements, a demonstration of attainment and reasonable further progress, and contingency measures. CAA section 189(d) requires that the SIP revision must provide for attainment of the standards and, from the date of the SIP submittal until attainment, for an annual reduction in the emissions of PM₁₀ or a PM₁₀ precursor pollutant within the area of not less than five percent of the amount of such emissions as reported in the most recent inventory prepared for such area.

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.

In addition, 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. 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. For example, an approvable Serious area nonattainment plan would satisfy the Act's requirements for imposing best available control measures, including best available control technology, which would presumably satisfy the less stringent Moderate area requirements for reasonably available control measures, including reasonably available control technology.

The new attainment date is set by CAA section 179(d)(3), which relies upon section 172(a)(2) to establish a new attainment date but with a different starting point than provided in section 172(a)(2). Under section 179(d)(3), 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. Lastly, section 189(d) requires that the state submit the required SIP revision within 12 months after the applicable attainment date. In this case, if the EPA finalizes this proposed rule, then the State of Arizona will be required to submit a SIP revision that complies with sections 179(d) and 189(d) within 12 months of December 31, 2022, i.e., by December 31, 2023.

IV. Summary of Our Proposed Action

In accordance with sections 179(c)(1) and 188(b)(2) of the CAA, the EPA is proposing to determine that West Pinal County did not attain the 1987 24-hour PM₁₀ NAAQS by the applicable Serious area attainment date of December 31, 2022. Our proposed determination that West Pinal County failed to attain the PM₁₀ NAAQS is based on complete and quality-assured 2020 and 2021 data and preliminary 2022 data. We are soliciting comment on this proposed finding.

If we finalize our action as proposed, Arizona will be required under CAA sections 179(d) and 189(d) to submit a revision to the SIP for West Pinal County that, among other elements,

attain by the December 31, 2022 Serious area attainment date.

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 PM₁₀ or a PM₁₀ 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) would be due for submittal to the EPA no later than December 31, 2023.

The EPA is soliciting public comments on the issues discussed in this document. We will accept comments from the public on this proposal until March 17, 2023 and will consider comments before taking final action.

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 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 West Pinal County 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 West Pinal County,²⁶ the proposed finding of failure to attain the PM₁₀ 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 West Pinal County. 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.

²⁶ Map of Federally-Recognized Tribes in 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>.

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 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: February 9, 2023.

Martha Guzman Aceves,
Regional Administrator, Region IX.

[FR Doc. 2023–03198 Filed 2–14–23; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2023–0059; FRL–10645–01–R9]

Air Plan Limited Approval and Limited Disapproval; California; Eastern Kern Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing a limited approval and limited disapproval of revisions to the Eastern Kern Air Pollution Control District (EKAPCD or “District”) portion of the California State Implementation Plan (SIP). This revision concerns emissions of oxides of nitrogen (NO_x) from Portland cement