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March 28, 2023

Michael S. Regan
Administrator
U.S. Environmental Protection Agency (EPA)
Attn: Docket ID No. EPA-HQ-OAR-2015-0072-1543
1200 Pennsylvania Ave, N.W.
Washington, DC 20640

Subject: Comments on EPA's Proposed Reconsideration of the National Ambient Air Quality Standards (NAAQS) for Particulate Matter (PM), Docket ID No. EPA-HQ-OAR-2015-0072-1543

Dear Administrator Regan:

The Wisconsin Department of Natural Resources (WDNR) provides the following comments on EPA's proposed "Reconsideration of the National Ambient Air Quality Standards (NAAQS) for Particulate Matter (PM)," as published in the Federal Register on January 27, 2023 (88 FR 5558).

Based on EPA's review of the air quality criteria and the NAAQS for PM, EPA is proposing to revise the annual standard for fine particles (PM_{2.5}) by lowering the level from 12.0 µg/m³ to between 9.0 and 10.0 µg/m³, while soliciting comment on a range between 8.0 and 11.0 µg/m³. EPA is proposing to retain the 24-hour PM_{2.5} standard at a level of 35 µg/m³ while taking comment on revising the level as low as 25 µg/m³. EPA is proposing to retain the coarse particles (PM₁₀) 24-hour standard without revision.

In addition to the standard, EPA is proposing updates to other aspects related to the PM NAAQS, including revisions to the Air Quality Index (AQI) and monitoring requirements, to align with the revised NAAQS and reflect the most recent scientific understanding of the health effects of PM_{2.5}.

It is important that EPA fulfills its legal obligation to establish a PM NAAQS that is appropriately protective of public health. EPA must also recognize that a revised, more stringent NAAQS will result in additional costs to state agencies that are already very resource constrained. Undertaking the permitting, compliance, planning, administration and monitoring activities necessary to implement a revised NAAQS will require agencies to draw upon the same limited resources that are already oversubscribed. Therefore, it is imperative that any revision to the PM NAAQS be accompanied by a concomitant level of federal funding to air agencies, such as increases in Section 103 and Section 105 grants, to ensure the air quality goals of the NAAQS are met.

An additional challenge to addressing a revised PM NAAQS is that PM_{2.5}, like ozone, is a regional pollutant. The emissions that cause elevated PM_{2.5} can come from many different sources and originate hundreds of miles away. Because of this, states will only be able to attain a more stringent PM_{2.5} NAAQS with concurrent help from EPA. For example, for any revised NAAQS it will be imperative for EPA to address the interstate transport of PM_{2.5} on a timeline that aligns with the attainment planning dates associated with state nonattainment areas.

In addition, federally-controlled mobile sources, especially diesel trucks and engines, are significant contributors to PM_{2.5} levels, due to their emissions of both PM_{2.5} and PM_{2.5} precursors (VOCs and NOx). As such, should EPA revise the PM NAAQS, it will be critically important for EPA to continue to take timely, meaningful action to

reduce emissions further from the mobile source sector. This includes moving forward on more stringent mobile source emissions standards, especially as they impact diesel emissions, and continuing to make enforcement of vehicle emissions control tampering a high agency priority.

The WDNR offers the following specific comments on this proposal:

Proposed Revision to the Primary Standard

1. EPA should finalize a revised level of the primary standard that protects public health with an adequate margin of safety.

The Clean Air Act (CAA) requires EPA to finalize a primary PM_{2.5} standard that is requisite to protect public health with an adequate margin of safety, including the health of people most at risk from PM exposure. The WDNR acknowledges that, in this proposal, EPA relies on its long-held science-based decision-making process driven by the evaluation of the available health effects evidence and conclusions contained in the 2019 Integrated Science Assessment (ISA) and ISA Supplement, quantitative exposure/risk analysis presented in the 2020 and 2022 Policy Assessments, and recommendations from the Clean Air Scientific Advisory Committee (CASAC).¹

As described above, EPA is proposing to lower the annual PM_{2.5} standard to between 9.0 and 10.0 µg/m³ and proposing to retain the 24-hour PM_{2.5} standard at a level of 35 µg/m³. The levels finalized by EPA should be as stringent as necessary to protect public health with an adequate margin of safety, and, in accordance with the CAA, be based on the best scientific data available to EPA.

Implementation of the Revised PM NAAQS

2. EPA must provide designations guidance no later than the date the NAAQS is finalized.

Following a revision to a NAAQS, EPA has traditionally issued “designations guidance” in the form of a memorandum to help states and tribes prepare their recommendations on area designations. This guidance has typically trailed the finalization of a revised NAAQS by several months.²

In this proposal, EPA states that it intends to release such designations guidance “around the time” it promulgates the revised NAAQS.³ Since states will need this guidance before they can begin working on the technical support activities needed to make timely recommendations, it is critical that EPA release this guidance no later than the date any revised NAAQS is finalized. Further, if EPA intends to significantly change its traditional approach to designations in its designations guidance, EPA should provide a full notice and comment opportunity to solicit feedback on those changes.

3. EPA must provide states with sufficient time to develop initial designations recommendations.

EPA correctly notes that the CAA gives state governors up to 12 months after the finalization of a new or revised standard to make initial designations recommendations and that EPA cannot require these recommendations sooner than 120 days after such finalization. Historically, EPA has allowed states one year to make these recommendations.

¹ Available at: <https://www.epa.gov/naaqs/particulate-matter-pm-air-quality-standards>.

² For example, EPA issued such guidance for the 2012 PM NAAQS in April 2013 and for the 2015 ozone NAAQS in February 2016.

³ 88 FR 5681.

In this rule, EPA indicates that it intends to promptly issue designations in accordance with these statutory requirements to ensure expeditious public health protections for all populations, including those currently experiencing disparities in PM_{2.5} exposure. If EPA intends to finalize an expedited designations process that differs from its traditional timeframes, it must ensure that the timeline includes sufficient time for states to perform the necessarily rigorous technical and policy work needed to develop designations recommendations. For example, providing states only 120 days to submit their recommendations to EPA for this revised NAAQS would be insufficient.

4. EPA should promulgate a comprehensive implementation rule for the revised PM NAAQS.

EPA is proposing to not issue a separate implementation rule for a revised PM NAAQS, and instead rely on the rule it developed for the 2012 PM NAAQS. The WDNR appreciates the efficiencies this proposal is intended to create. However, there are numerous issues that will affect state implementation of a revised NAAQS (such as consideration of exceptional events/fires, at-risk community monitoring, interactions with/revocation of prior PM NAAQS, and changes in SIP requirements due to court decisions) that are most appropriate for EPA to address in a NAAQS-specific regulation. As such, in consultation with air agencies, EPA should develop an implementation or SIP-requirements rule in order to comprehensively address these requirements and provide clear and timely guidance to those implementing the NAAQS.

Proposed Changes to Ambient Monitoring and Quality Assurance Requirements

5. EPA should ensure its definition of “at-risk communities” remains flexible enough so that states can also draw upon their experience when identifying such communities as part of implementing the PM NAAQS.

EPA is proposing to modify the PM_{2.5} monitoring network design criteria to account for the proximity of populations at increased risk of PM_{2.5}-related health effects to sources of air pollution. EPA has provided a definition of “at-risk communities” for the purposes of this rule that accounts for various contributing factors, such as proximity to known sources, demographics, prevalence of negative health outcomes associated with air pollution, and local air quality compared to the NAAQS.

As proposed, the flexibility in these provisions will allow state regulators and impacted communities discretion to address and measure progress towards resolving the impacts on these communities locally. This is important because states have a unique perspective on which communities are likely to be more at risk when it comes to the health impacts of pollution. Similarly, EPA should allow states the flexibility to employ the tools they deem appropriate to help identify these communities and defer to state determinations on which communities are impacted and how specific NAAQS requirements might therefore apply.

The WDNR also notes that any additional requirement to expand monitoring and identification of at-risk communities will require additional resources to implement and support. As state funding is currently inadequate for this purpose, this would need to be supported by additional Section 103 funds.

6. EPA must require the appropriate testing of next generation technologies to ensure accuracy before they are used to support implementation of the PM NAAQS.

EPA is soliciting input on how to expand the use of non-regulatory next generation technologies to support existing regulatory processes, such as assessing PM hot spots, determining the boundaries of nonattainment areas, and siting regulatory monitors.

In order to ensure that next generation technologies produce data that is credible for these purposes, any instruments that EPA identifies are appropriate to support the implementation of the revised PM NAAQS

should undergo the rigorous testing required by EPA's reference and equivalency program. This will ensure data collected from non-regulatory instruments are comparable to, and consistent with, a known technical standard.

7. Data from next generation technologies should not be the sole basis for regulatory decisions associated with the PM NAAQS.

While there are demonstrated benefits to expanding the use of next generation technologies to support non-regulatory air quality data needs, EPA should continue to rely on federally regulated monitoring methods to support regulatory decisions associated with the revised PM NAAQS, such as nonattainment area designations. Regulatory monitors operated by state agencies are subject to detailed siting requirements and instruments are maintained by technical experts. Additionally, the data produced undergoes defined quality assurance and quality control processes. Since the next generation technologies EPA identifies in this proposal are not subject to the same rigorous requirements, regulatory decisions should not be based on data from those technologies alone.

EPA should continue to work with states to identify where it is appropriate and beneficial to use data from next generation technologies to supplement the existing regulatory monitoring data. A recent successful example is the inclusion of non-regulatory data in AirNow's Fire and Smoke Map, which has expanded the spatial coverage and usefulness of this tool for communicating real-time air quality. Use of non-regulatory data in this way can and should remain distinct from regulatory applications.

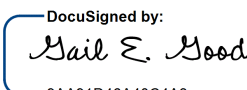
8. EPA's Federal Reference and Equivalency Method programs should ensure the most accurate data for regulatory purposes.

Regulatory PM_{2.5} data includes Federal Reference Method (FRM) and Federal Equivalent Method (FEM) data, both are utilized by air agencies to assess actions needed to attain the NAAQS. Where air agencies are relying on FEM and FRM data, EPA should offer flexibility in utilizing the FRM data when making regulatory determinations. EPA should edit 40 CFR Appendix N to Part 50 3.0 to allow only the method that is designated "primary" to be used in NAAQS determinations.

The EPA has utilized a process through their reference and equivalency program that allows vendors to update methods in order to improve data alignment with collocated FRMs. The existing process should be modified to ensure FEM status renewal occurs on a regular and defined schedule and requires vendors to improve regulatory equipment as technology advances and data becomes more accurate.

Please contact Katie Praedel at (608) 259-6108 or Katie.Praedel@wisconsin.gov if you have any questions concerning these comments.

Sincerely,

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Gail E. Good
Director, Air Management
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cc: William Levins – LS/8
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