

EPA Signs Proposed Rule to Revise National Ambient Air Quality Standards for Particulate Matter

December 22, 2005

On December 20, the U.S. Environmental Protection Agency (EPA) signed a proposed rule to revise the National Ambient Air Quality Standards (NAAQS) for Particulate Matter (PM). **Comments on the proposed rule are due 90 days after publication of the proposal in the *Federal Register*.** Public hearings will be held in Chicago, Philadelphia, and San Francisco in February 2006. A separate *Federal Register* notice will be issued to announce the dates and times of the hearings.

Section 109(d)(1) of the Clean Air Act requires that the Administrator of the EPA complete a thorough review of the NAAQS at 5-year intervals and, based on this review, make such revisions to the NAAQS as may be appropriate to provide requisite protection of public health and welfare. According to EPA, the proposed revisions to the PM NAAQS are based on its review of scientific studies and evidence of health effects and risks related to exposures to fine particles (PM_{2.5}) and thoracic coarse particles (PM₁₀). EPA is proposing revisions to the primary PM_{2.5} standards, primary PM₁₀ standards, and secondary PM standards. A summary of EPA's proposed PM standard revisions is provided in Table A at the end of this alert.

Proposed Revisions to Primary PM_{2.5} Standards

EPA currently has primary PM_{2.5} standards based on annual and 24-hour averaging times. EPA proposes to retain the different averaging times, and thus, to continue to include a 24-hour PM_{2.5} standard and an annual PM_{2.5} standard in the PM NAAQS.

The rule proposes to revise the level of the 24-hour primary PM_{2.5} standards from 65 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$) to 35 $\mu\text{g}/\text{m}^3$. According to EPA, a standard set at 35 $\mu\text{g}/\text{m}^3$ would protect public health with an adequate margin of safety from serious health effects that are likely causally associated with short-term exposure to PM_{2.5}. EPA recognizes that other approaches to selecting a standard, based on alternative interpretations of the scientific evidence, have been presented. Accordingly, EPA is soliciting comment on alternative levels for the 24-hour standard from 25 $\mu\text{g}/\text{m}^3$ to 65 $\mu\text{g}/\text{m}^3$. EPA has stated in the preamble to the proposed standard that they will consider any new studies on health effects that were published after the Agency's review leading to this proposal was completed.

With regard to the annual PM_{2.5} standard, EPA is proposing to retain the current annual level at 15 $\mu\text{g}/\text{m}^3$. EPA also is seeking comment on alternative levels between 12 $\mu\text{g}/\text{m}^3$ and 15 $\mu\text{g}/\text{m}^3$.

Proposed Revisions to Primary PM₁₀ Standards

EPA is proposing to replace the existing PM₁₀ standard with a PM_{10-2.5} standard that uses a new indicator for thoracic coarse particles. Under this new approach, the PM_{10-2.5} standard would exclude from regulation those particles with a diameter of 2.5

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microns or less. The $PM_{10-2.5}$ indicator would include only an ambient mix of $PM_{10-2.5}$ that is dominated by re-suspended dust from high-density traffic on paved roads and PM generated by industrial sources and construction sources. The new indicator would exclude any ambient mix of $PM_{10-2.5}$ that is dominated by rural windblown dust and soils and PM generated by agricultural and mining sources. This proposal would exclude agricultural sources, mining sources and other similar sources of crustal material from the control requirements for meeting the $PM_{10-2.5}$ standard. Also of note, EPA is proposing to use the geographic location of the ambient monitors as the indicator for excluding $PM_{10-2.5}$ generated from windblown dust or soils, and agricultural or mining sources. The new $PM_{10-2.5}$ standard would be set at a 24-hour standard of $70 \mu\text{g}/\text{m}^3$, but EPA solicits comment on alternative levels for the standard.

The rule proposes to revoke the current 24-hour PM_{10} standards upon finalization of a 24 hour $PM_{10-2.5}$ standard, except in areas with a population of 100,000 or more and at least one violating monitor. EPA is seeking comment on whether it should retain the 24-hour PM_{10} standard in areas with populations below 100,000 that contain large industrial sources.

Finally, EPA proposes that the new $PM_{10-2.5}$ NAAQS will include only a 24-hour $PM_{10-2.5}$ standard. EPA found that scientific evidence does not support an annual $PM_{10-2.5}$ standard. Accordingly, EPA proposes to revoke the current annual PM_{10} standard, and does not propose to replace it with an annual $PM_{10-2.5}$ standard. The agency is taking comment on whether it is appropriate to do so or whether an annual $PM_{10-2.5}$ standard should be included.

Proposed Revisions to Secondary PM Standards

EPA believes that it is appropriate to revise both the 24-hour and annual secondary $PM_{2.5}$ standards. Under the proposed rule, the secondary $PM_{2.5}$ standards would be identical to the proposed suite of primary $PM_{2.5}$ standards. EPA is also considering alternative approaches, including whether to set a different secondary $PM_{2.5}$ standard to address visibility. The Clean Air Scientific Advisory Committee (CASAC) recommended a secondary $PM_{2.5}$ standard with an averaging time between four and eight hours in order to reduce visibility impairments in urban areas. EPA solicits comments on this as well as alternative levels for the standard within the range of 20 to $30 \mu\text{g}/\text{m}^3$.

With regard to the secondary $PM_{10-2.5}$ standard, EPA proposes to revise the secondary standard to be identical to the proposed primary 24-hour $PM_{10-2.5}$ standard. If EPA decides not to issue an annual primary $PM_{10-2.5}$ standard, no secondary annual $PM_{10-2.5}$ standard would be issued.

Effects of New Standards on Implementation of Existing PM Standards

EPA also is engaged in a rulemaking to adopt the requirements for implementing the existing $PM_{2.5}$ NAAQS. Comments on the proposed implementation rule are due January 31, 2006. EPA's proposal to "move the goal" by revising the $PM_{2.5}$ standard at this point in time creates significant regulatory uncertainty for facilities. It also complicates the implementation process for control agencies that currently are developing their attainment plans for achieving the existing $PM_{2.5}$ standard. For example, the proposed rule to revise the PM NAAQS, if finalized, would add additional nonattainment areas for $PM_{2.5}$ and could impose additional reduction obligations.

EPA recognizes this issue and intends to publish an Advanced Notice of Proposed Rulemaking (ANPR) in January 2006 on implementation of the proposed revisions to the PM NAAQS. The ANPR will address the impact of the proposed revisions on the existing PM standards as well as the intersection of the proposal

with other EPA clean air programs, including the Clean Air Interstate Rule, New Source Review, and Prevention of Significant Deterioration.

For Additional Information

If you would like more information on these proposed standards or on other clean air-related issues, please contact Dick Penna, Stephen Fotis, Britt Fleming, or any other member of the firm’s Environmental Practice at (202) 298-1800, or visit our website at www.vnf.com.

Table A

EPA’s Proposed PM Standard Revisions

	Existing Standard	Proposed Standard
24-hour PM_{2.5}	65 µg/m ³	35 µg/m ³
Annual PM_{2.5}	15 µg/m ³	15 µg/m ³
24-hour Coarse PM	150 µg/m ³ of PM ₁₀	70 µg/m ³ of PM _{10-2.5}
Annual Coarse PM	50 µg/m ³ of PM ₁₀	None

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