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EPA Tightens the Annual $PM_{2.5}$ Standard, Creating Compliance Challenges Across the West



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On February 7, 2024, EPA released its final rule tightening the annual National Ambient Air Quality Standard ("NAAQS") for fine particulate matter ("$PM_{2.5}$"), from 12 µg/m3 to 9 µg/m3. EPA's decision to drop the standard to the low end of the proposed range substantially increases the number of counties that do not meet the standard and poses significant compliance challenges for sources permitting expansion projects.

EPA retained the other particulate matter standards, including the 24-hour $PM_{2.5}$ standard, "secondary" $PM_{2.5}$ standard, and all of the standards for PM_{10}.

The new annual $PM_{2.5}$ standard takes effect 60 days after publication of the final rule in the Federal Register. States and EPA will have two years after the effective date to designate areas that exceed the standard as "nonattainment areas." Based on current monitoring data, the following counties in Western States will not meet the new $PM_{2.5}$ standard and will be redesignated to nonattainment:

- Alaska – Fairbanks North State Borough
- Colorado – Denver county
- Idaho – Benewah, Lemhi, and Shoshone counties
- Montana – Lincoln and Missoula counties
- Nevada – Clark, Douglas, and Washoe counties
- New Mexico – Bernalillo county
- Utah – Salt Lake county

Nonattainment status implicates significant regulatory obligations for states as well as permitting challenges for sources. States will have 18 months to submit State Implementation Plans ("SIPs") for these areas that include regulations to achieve the new standard within six years of the nonattainment designation. Meanwhile, sources of $PM_{2.5}$ in nonattainment areas will be subject to more stringent permitting provisions under the Clean Air Act, including requirements to purchase emission offsets.

As importantly, the new annual $PM_{2.5}$ standard poses permitting challenges for all sources, including those in attainment areas. Unless EPA has issued a permit by the effective date of the final rule, sources with pending federal major source construction permits will be obligated to demonstrate through modeling that project emissions will not cause or contribute to a violation of the new, lower standard. In the West, background levels of $PM_{2.5}$ already

approach half of the new 9 µg/m3 standard in many locations, making modeling of compliance even more challenging.

The high background levels of $PM_{2.5}$ in the West is driven in part by the impact of wildfire and prescribed burns, which EPA acknowledges accounts for 44% of all primary $PM_{2.5}$ emissions. EPA provides a process for states to exclude air quality data during fires as “exceptional events” when determining whether an area meets the NAAQS. While the process has been cumbersome and often inaccurate in the past, the final rule provides that EPA will develop additional implementation tools and possible updates to existing guidance to streamline the process of excluding data impacted by such fire events.

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