PM2.5/Clean Air Act: 17 Environmental/Health Organizations Challenge U.S. EPA Failure to Designate Attainment/Nonattainment Areas

Walter Wright, Jr.
wwright@mwlaw.com
(501) 688.8839

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The Environmental Defense Fund and 16 other health, community, and environmental organizations (collectively, "EDF") filed in the United States District Court for the Northern District of California a Complaint for Declaratory and Injunctive Relief ("Complaint") against the United States Environmental Protection Agency ("EPA") alleging that the Administrator has failed to carry out a non-discretionary duty under the Clean Air Act.

EPA is alleged to have failed to promulgate the designation of various air quality control regions that were either in attainment or nonattainment of the PM2.5 National Ambient Air Quality Standard ("NAAQS").

Particulate matter is a generic term for a broad class of chemically and physically diverse substances that exist as discrete particles (liquid droplets or solids) over a wide range of sizes. It is composed of two major components.

Larger particulates (PM10) are generally the result of mechanical, evaporative, and suspension processes. Particulates designated PM2.5 typically consist of sulfates, nitrates, elemental carbon, organic carbon, compounds or metals. Because of their small size, these particulates can remain in the air for a significant period of time.

Section 108 and 109 of the Clean Air Act require that EPA identify air pollutants utilizing certain criteria and set NAAQS for each. Particulates are one of the six air pollutants currently designated as criteria air pollutants and are therefore subject to NAAQS. Section 109 requires that EPA promulgate primary NAAQS for the pollutants identified under Section 108.

Section 109(d)(1) of the Clean Air Act mandates a periodic review of each NAAQS. Depending on the results of the review, EPA must determine whether the existing air quality criteria and NAAQS should be revised. EPA's previous review and revision of the PM2.5 NAAQS during the Biden Administration is an example of this review process.

The Clean Air Act does not allow EPA to consider either economics or cost in setting or revising NAAQS.

The states are primarily responsible for ensuring attainment and maintenance of NAAQS once the EPA has established or revised one. Each state is then required to formulate, subject to EPA approval, an implementation plan (i.e., "SIP") designed to achieve each NAAQS.

EPA in a November 24, 2025 Motion before a federal appellate court argued that in revising the PM2.5 NAAQS it based its action on an erroneous interpretation of the Clean Air Act and exceeded its authority by revising the standard without initiating and completing a thorough review. The agency argues that the result was:

… an unlawful tightening of the annual standard for fine particulate matter (PM2.5) from 12.0 µg/m3 to 9.0 µg/m3 , without the rigorous, stepwise process that Congress required.

EPA asked that the District of Columbia Circuit Court of Appeals vacate the rule before the area designation deadline of February 7th.

EDF argues in the Complaint that by previously adopting this final rule setting a NAAQS, that this triggered a non-discretionary duty to "promulgate the designations of all areas" of the country as meeting ("in attainment of") or not meeting ("in nonattainment of") the strengthened standard within two years. The relevant date is stated to be February 7th.

The organizations argue that the statutory deadline has passed and there has not yet been promulgated designations for all areas of the nation. EPA's failure to meet the deadline is alleged to violate the Clean Air Act. As a result, EDF is seeking declaratory relief in order to compel EPA to complete the mandatory designation process.

A copy of the Complaint can be found here.