PM2.5/U.S. EPA Initial Air Quality Designations: 23 Environmental Organizations Submit Joint Comments



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

11/11/2026

The Natural Resources Defense Council, Earthjustice, Environmental Defense Fund, and 20 other environmental organizations (collectively, "NRDC") submitted November 5th comments to the United States Environmental Protection Agency ("EPA") regarding:

Initial Air Quality Designations for the 2024 Revised Primary Annual Fine Particle (PM2.5) National Ambient Air Quality Standards (NAAQS).

See Docket ID No. EPA-HQ-OAR-2024-0078.

The comments address EPA's intended approach for area designations (i.e., attainment/nonattainment/unclassifiable) under the 2024 Revised Primary Annual Fine Particulate Matter ("PM2.5") National Ambient Air Quality Standards ("NAAQS"). See 91 Fed. Reg. 63,516 (Oct. 6, 2026).

EPA had modified under the Biden Administration the PM2.5 to a more restrictive 9.0 µg/m3. The previous PM2.5 standard was 12.0 µg/m3. However, EPA under the Trump Administration argued that the revised PM2.5 NAAQS was an unlawful tightening. EPA unsuccessfully requested that a federal appellate court vacate the rule before an area designation deadline of February 7, 2026.

EPA subsequently notified all 50 states, the District of Columbia, 5 territories, and 67 Tribes of its intended approach for area designations under the Biden-era 2024 revised NAAQS for PM2.5. Further, EPA provided an opportunity for states, territories, and Tribes to submit additional information within 30 days along with a Notice of Availability in the Federal Register to receive feedback.

EPA stated that the opportunity for further input represented a step toward complying with a court order issued by the U.S. District Court for the Northern District of California requiring designations for Air Quality Control Regions by February 6, 2027.

By way of example, the Arkansas Department of Energy and Environment submitted a September 30th letter to EPA Region 6 providing its views on the appropriate designation of Air Quality Control Regions in the state for PM2.5.

NRDC, by way of introduction, states that the revised PM2.5 NAAQS was upheld by the United States Court of Appeals for the D.C. Circuit as "lawful and well-grounded, and is foundational to protecting Americans from these serious health risks." The organizations further argue that:

- EPA properly designating all areas in the country based on whether ambient concentrations of PM2.5 meet or exceed the NAAQS is a crucial step in ensuring the public has the benefit of those protections.

- Areas with concentrations that are in violation of the 2024 PM2.5 NAAQS, or areas that contribute to a nearby area with a violation, must be properly designated as “nonattainment”.
- The above referenced designation ensures that the relevant governmental agencies are required to implement appropriate emission reduction measures.
- Based on the certified 2023-2025 design values that EPA published in June 2026, the agency has sufficient information at this time to designate all areas in the country as required by the Clean Air Act.

Key components of the NRDC comments include:

- EPA’s Notice of Availability and 120-Day Letters Do Not Meet Applicable Legal Requirements.
- EPA has not met the requirements of Clean Air Act section 107(d) where EPA intends to depart from a state’s recommendations.
- EPA’s suggestion that its court-ordered deadline is justification for not meeting the statutory requirements in promulgating designations is contrary to law and otherwise arbitrary and capricious.
- EPA’s process for PM2.5 NAAQS designations deviates from the agency’s guidance and past practice without explanation, and arbitrarily and unlawfully fails to propose boundaries for nonattainment areas.
- EPA has sufficient information at this time to issue final designations, and may not otherwise invoke an extension or promulgate Unclassifiable designations.
- The statute limits “unclassifiable” designations and extensions to situations where EPA actually lacks sufficient information required to determine whether an area is meeting the NAAQS.
- Under EPA’s own methodology, valid design values decide whether an area meets the standard, and EPA already has them.
- Violating monitors come first.
- A design value above the standard is a violation.
- EPA committed to designating those areas nonattainment.
- EPA may not reopen or otherwise alter certified data to create uncertainty after the fact.
- Further Downward Adjustments To The Regulatory Monitors Are Not Justified.
- EPA lacks authority to make retroactive changes to data outside of the formal approval of state monitoring plans.
- EPA must provide an opportunity for notice and comment on any changes to monitoring data that support a designation.
- States may not exclude near road monitors that are approved as part of their Annual Ambient Monitoring Network Plan.
- Issues Relating to Exceptional Events.
- The deadlines for States to submit both initial notifications and demonstrations for Exceptional Events has already passed under EPA’s regulations.
- An opportunity for notice and comment must be provided before EPA promulgates final designations based on Exceptional Events concurrences.
- An interpretation that public comment is not required for EPA’s determinations as to exceptional events constructively reopens the 2016 Exceptional Events Rule.
- The presence of multistate nonattainment areas support that EPA must provide an opportunity for public comment on its exceptional event determinations as they relate to these designations.
- The mere submission of an Exceptional Events demonstration is not sufficient to designate an area as Unclassifiable.
- Although site days may qualify as Tier 1 or Tier 2 events, that does not mean they satisfy the requirements to be excluded as exceptional events.
- Issues Regarding Boundaries and Designation Labels.
- Available satellite data must be used for properly determining nonattainment boundaries.
- Unclassifiable/Attainment is an extra-statutory and improper designation.
- Venue.

- EPA should clarify that this is a “nationally applicable” action under CAA section 307(b)(1), reviewable only in the D.C. Circuit.
- Alternatively, EPA should make a finding that the designations are based on determinations of nationwide scope or effect under CAA section 307(b)(1).

A copy of the NRDC comments can be found here.