

I. Background

A. Designation and Classification of CO Nonattainment Areas

The Clean Air Act Amendments (CAAA) of 1990 authorized EPA to designate areas across the country as nonattainment, and to classify these areas according to the severity of the air pollution problem. Pursuant to section 107(d) of the CAAA, following enactment on November 15, 1990, States were requested to submit lists, within 120 days, which designated all areas of the country as either attainment, nonattainment, or unclassifiable for CO. The EPA was required to promulgate these lists of areas no later than 240 days following enactment of the CAAA (see 56 FR 56694, (November 6, 1991)).

On enactment of the CAAA, a new classification structure was created for CO nonattainment areas, pursuant to section 186 of the CAAA, which included both a moderate and a serious area classification. Under this classification structure, moderate areas with a design value of 9.1–16.4 ppm, were expected to attain the CO NAAQS as expeditiously as practicable, but no later than December 31, 1995. CO nonattainment areas designated as serious, with a design value of 16.5 ppm and above, were expected to attain the CO NAAQS as expeditiously as practicable, but no later than December 31, 2000.

States containing areas classified as either moderate or serious for CO had the responsibility of developing and submitting to EPA State Implementation Plans (SIPs) which addressed the nonattainment air quality problems in those areas. The air quality planning requirements for moderate and serious CO nonattainment areas are addressed in sections 186–187 respectively of the CAAA, which pertain to the classification of CO nonattainment areas as well as to the requirements for the submittal of both moderate and serious area SIPs. The EPA issued general guidance concerning the requirements for SIP submittals, which included requirements for CO nonattainment area SIPs, pursuant to Title I of the CAAA (See generally, 57 FR 13498 (April 16, 1992), and 57 FR 18070 (April 28, 1992)).

The EPA has the responsibility for determining whether a nonattainment area has attained the CO NAAQS by the applicable attainment date.¹

B. How Does EPA Make Attainment Determinations?

Section 179(c)(1) of the CAAA provides that attainment determinations are to be based upon an area's "air quality as of the attainment date", and section 186(b)(2) is consistent with this requirement. EPA makes the determination as to whether an area's air quality is meeting the CO NAAQS based upon air quality data gathered at CO monitoring sites in the nonattainment area. This air quality data is entered into the Aerometric Information Retrieval System (AIRS). This data is reviewed to determine the area's air quality status in accordance with EPA regulations at 40 CFR 50.8, and in accordance with EPA policy and guidance.²

Attainment of the CO NAAQS requires that not more than one 8-hour average per year can exceed 9.0 ppm (values below 9.5 are rounded down to 9.0 and are not considered exceedances). CO attainment is evaluated and determined by reviewing 8 quarters of data, or a total of 2 complete calendar years of data for an area. If an area's design value is greater than 9.0 ppm, this means that a monitoring site in the area has recorded more than one value above the level of the NAAQS and therefore the area has not attained the CO NAAQS.

The 8-hour CO design value is used to determine attainment of CO areas. The design value for an area is determined by first finding the design value at each CO monitoring site in the area. The highest of these individual site design values then becomes the design value for the area. To determine the design value for a site we look at the highest and second highest (non-overlapping) 8-hour values for the most recent two years prior to the attainment date (in this case 1999 and 2000). The highest of the two second high values is used as the design value for the monitoring site.

C. What Is the Attainment Date for the Phoenix Metropolitan CO Nonattainment Area?

Phoenix was originally classified as a moderate CO nonattainment area, with an attainment date no later than December 31, 1995. On May 10, 1996, EPA made a finding that Phoenix did not attain the CO NAAQS by the December 31, 1995 attainment date for the moderate nonattainment area. This finding was based on EPA's review of

monitored air quality data for compliance with the CO NAAQS. As a result of this finding, the Phoenix CO nonattainment area was reclassified as a serious CO nonattainment area (See 61 FR 39343, July 29, 1996), and its attainment date was extended to December 31, 2000. Phoenix has not had an exceedance of the CO NAAQS since 1996, and therefore has more than enough years of clean data for EPA to make an attainment finding.

II. Basis for EPA's Action

Arizona has 13 CO monitoring sites in the Phoenix CO nonattainment area. The air quality data in AIRS for these monitors show that, for the 2-year period from 1999 through 2000, there were no violations of the 8-hour CO standard. The monitoring site with the highest 8-hour design value during this 2-year period was at the Grand Ave. and 27th Ave. which had a design value of 8.1 ppm. Based on this information, EPA has determined that the area attained the CO NAAQS standard as of the attainment date of December 31, 2000.

This finding of attainment should not be confused with a redesignation to attainment under CAAA section 107(d). Arizona has recently submitted a redesignation request and a maintenance plan as required under section 175A(a) of the CAAA, which EPA intends to act on in the near future. The area will remain a serious CO nonattainment area with the planning requirements that apply to serious CO nonattainment areas until such time that EPA acts on the redesignation request and maintenance plan.

III. EPA's Action

By today's action, EPA is making the determination that the Phoenix serious CO nonattainment area did attain the CO NAAQS by the attainment date of December 31, 2000 based on no exceedances since 1996. As explained above, the Phoenix nonattainment area remains classified a serious CO nonattainment area, and today's action does not redesignate the Phoenix nonattainment area to attainment.

IV. Statutory and Executive Order Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May

¹ See sections 172(C), 179(c) and 186(b)(2) of the CAAA.

² The relevant guidance is in a memorandum from William G. Laxton, Director Technical Support Division, entitled "Ozone and Carbon Monoxide Design Value Calculations," dated June 18, 1990.