

May 11, 2020

SUBMITTED ELECTRONICALLY

Administrator Andrew R. Wheeler
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, D.C. 20460

ATTN: DOCKET NO. EPA–HQ–OAR–2015–0072

RE: REQUEST TO SUSPEND DEADLINE FOR PUBLIC COMMENTS ON EPA’S NATIONAL AMBIENT AIR QUALITY STANDARDS FOR PARTICULATE MATTER, 85 FED. REG. 24,094 (APRIL 30, 2020), IN LIGHT OF ONGOING NATIONAL PUBLIC HEALTH EMERGENCY

Administrator Wheeler:

Environmental Defense Fund, Environmental Protection Network, Environmental Law & Policy Center, Moms Clean Air Force, National Parks Conservation Association, Sierra Club, Clean Air Task Force, Natural Resources Defense Council, Environmental Integrity Project, Union of Concerned Scientists, Environment Texas, Coalition of Community Organizations, Downwinders at Risk, Achieving Community Tasks Successfully, Coalition for Environment, Equity and Resilience, and WE ACT for Environmental Justice call on you to immediately suspend the public comment deadline and public hearing date on EPA’s proposal to maintain the outdated National Ambient Air Quality Standards (NAAQS) for particulate matter. This deeply flawed proposal does not protect public health and was already the result of an improperly truncated process. Now EPA has issued this proposal amid a national public health crisis and in a manner that further impedes required public participation and is inconsistent with basic legal safeguards under the Clean Air Act. It is manifestly unreasonable and dangerous to take an action of such great importance to our nation’s public health and require the public to comment **by June 29**. This is particularly problematic for public health experts on the front lines of saving lives imperiled by the coronavirus, and the millions of Americans heeding government and private sector responses to prevent harm by sheltering in place, closing schools, and working remotely.

On March 13, 2020, President Trump declared a national emergency in response to an ongoing global pandemic caused by a novel coronavirus. Over a million Americans have been infected, tens of thousands have died, and public health experts at the forefront of this crisis believe conditions will worsen before they improve. Public officials have advised millions of Americans not to leave their homes. People nationwide are only beginning to adjust to a new and

rapidly evolving situation and at the same time, public health and scientific experts—whose input on this proposal is essential—are courageously attempting to prevent the pandemic from claiming thousands more American lives.

Amidst these trying and uncertain circumstances, EPA proposed a rulemaking to leave unchanged our nation’s standards for particle pollution—harmful pollution that causes the deaths of thousands of Americans each year—and provided only **60 days for public comment**.

This would be a remarkably short comment period for such a consequential highly technical, and scientific rulemaking, even in the absence of a deadly pandemic. For example, EPA provided a 90-day comment period on the proposal issued for the ground-level ozone National Ambient Air Quality Standards in 2014. Here, EPA offers no reason whatsoever for why 60 days should be sufficient for the public to comment on primary and secondary standards for **two different particle indicators**—PM_{2.5} and PM₁₀, as compared to only a single indicator pollutant for ground-level ozone. The unreasonably short time period EPA has provided is substantially exacerbated by the current public health crisis—which underscores that the public should have *far more* than the customary 90-day comment period, not substantially less. And the result is a compromised rulemaking that, if finalized, would be a direct attack on public health, and adds to the tremendous and growing burden faced by nearly every person in the country.

Moreover, the approach EPA has set forth falls short of its legal requirements for minimum public participation as required by the Clean Air Act for a rulemaking that does not protect public health during the pendency of the public health crisis. EPA’s proposal specifies that the Agency will not be accepting written submissions via mail or hand delivery, nor will it be allowing access to the docket and reading room due to the public health crisis. These restrictions on public participation unacceptably limit the public’s ability to engage in a rulemaking with enormous implications for public health. The Agency should be encouraging the public to use additional avenues to safely engage in the comment period. The Agency must instead leave the docket open for public comment until the crisis abates and the public is able to fully participate in the process through written submission and access to the docket room. The Clean Air Act requires EPA to provide minimum safeguards to ensure transparency and public participation including that the Agency “allow any person to submit written comments, data, or documentary information” and “give interested persons an opportunity for the oral presentation of data, views, or arguments, in addition to an opportunity to make written submissions.” 42 U.S.C. § 7607(d)(5).

In addition to its egregious timing, EPA’s proposal undercuts the foundational air quality protections at the heart of EPA’s work and mission. The implications of this rulemaking are far-reaching, both for the health and well-being of people and their communities. We know that particle pollution causes heart disease, lung disease, and increases in early death—**and that the people suffering from these conditions may be at greater risk of severe illness from COVID-19**. Moreover, environmental justice communities whose lives are directly and often disproportionately impacted by exposure to particle pollution, are responding to the immediate

needs of their communities as the economic and health impacts of the pandemic spread. EPA must ensure comments can be delivered in multiple formats over a reasonable period of time to help ensure public participation is not limited from communities facing other significant challenges. This underscores the need for more time to ensure full public participation and the vital importance of ensuring these pollution protections are strong enough to protect human health both during and after the COVID-19 crisis.

Because of the importance of the NAAQS as foundational national, public health safeguards, we request that EPA suspend the public comment period during the pendency of the national emergency declaration and provide at least 90 days for comment and three public hearings once the national emergency is lifted. It is essential that EPA afford the public adequate time and accessibility to the public hearings to thoughtfully consider the effects of this final rulemaking and an opportunity to be publicly heard on key issues, particularly where EPA's proposal is at odds with its core mission to protect human health and the environment.

We also note that EPA is providing only 14 days for the public to sign up to participate in the public hearings on May 20th and 21st. This is an insufficient period of public notice and engagement given the circumstances. EPA should allow participants to sign up to attend or speak at the hearing throughout the entire 15-days before the hearing and should accommodate day-of registration as the Agency would during a regular, in-person, public hearing.

If EPA persists in hosting a public hearing on this proposal during a respiratory health pandemic—which we oppose—the agency must take every available step to replicate the norms of an in-person hearing by adding video capability to the public hearing options. Utilizing available video conferencing technology will offer the public the opportunity to testify “face-to-face” with the EPA staff and experts responsible for the rule as they would at an in-person hearing. This would also offer the public the opportunity to “see” other speakers offering testimony if they chose to join by video option. A call-in only option must also be available for those who lack access to internet and/or video technology or choose to participate by telephone.

Even as we ask for virtual hearings for this proposal, as a bare minimum due to the unusual circumstances caused by the pandemic, in the future virtual hearings should at most supplement, not replace in-person hearings and should not become the norm for EPA rulemakings. Public participation is central to the rulemaking process. EPA must take steps to ensure the public voice and the role of hearings is not diminished during the current public health crisis.

Respectfully,

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