

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 52**

[EPA-R06-OAR-2009-0214; FRL-8939-3]

Approval and Promulgation of Air Quality Implementation Plans; Texas; Control of Emissions of Nitrogen Oxides (NO_x)**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Proposed rule.

SUMMARY: The EPA is proposing to approve revisions to the Texas State Implementation Plan (SIP) that amend 30 TAC Chapter 117, Control of Air Pollution from Nitrogen Compounds. On March 10, 2009, the State of Texas submitted a SIP revision containing amendments to the Beaumont-Port Arthur (BPA) 8-Hour Ozone Nonattainment Area Major Source rules, the Houston-Galveston-Brazoria (HGB) 8-Hour Ozone Nonattainment Area Major Source rules, and the HGB 8-Hour Ozone Nonattainment Area Minor Source rules. These revisions will result in additional flexibility and consistency in the current stationary reciprocating internal combustion engine and gas turbine monitoring specifications found in Chapter 117 by allowing for an output-based option for monitoring nitrogen oxides (NO_x) emissions. This additional option is expected to be equally effective as totalizing fuel flow meters in the monitoring of NO_x emissions at major stationary sources in the BPA 8-hour ozone nonattainment area and at both major and minor sources in the HGB 8-hour ozone nonattainment area. The EPA is proposing to approve these revisions pursuant to section 110 of the Federal Clean Air Act (CAA).

DATES: Written comments must be received on or before August 31, 2009.

ADDRESSES: Comments may be mailed to Mr. Guy Donaldson, Chief, Air Planning Section (6PD-L), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202-2733. Comments may also be submitted electronically or through hand delivery/courier by following the detailed instructions in the Addresses section of the direct final rule located in the rules section of this **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Dayana Medina, Air Planning Section (6PD-L), Multimedia Planning and Permitting Division, U.S. EPA, Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733, telephone (214) 665-7241; fax number 214-665-7263; e-mail address medina.dayana@epa.gov.

SUPPLEMENTARY INFORMATION: In the final rules section of this **Federal Register**, EPA is approving the State's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no relevant adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

For additional information, see the direct final rule, which is located in the rules section of this **Federal Register**.

Dated: July 21, 2009.

Carl E. Edlund,

Acting Regional Administrator, Region 6.

[FR Doc. E9-18343 Filed 7-30-09; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 52**

[EPA-R03-OAR-2009-0199; FRL-8938-4]

Approval and Promulgation of Air Quality Implementation Plans; Maryland; Determination of Clean Data for the 1997 Fine Particulate Matter Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to determine that the Baltimore, Maryland and Hagerstown-Martinsburg, Maryland (MD)-West Virginia (WV) nonattainment areas for the 1997 fine particulate matter (PM_{2.5}) National Ambient Air Quality Standard (NAAQS) have clean data for the 1997 PM_{2.5} NAAQS. This proposed determination is based upon quality assured, quality controlled, and certified ambient air monitoring data showing that these areas have monitored attainment of the 1997 PM_{2.5} NAAQS based on the 2006-2008 data. In

addition, quality controlled and quality assured monitoring data for 2009 that are available in the EPA Air Quality System (AQS) database, but not yet certified, show that these areas continue to meet the 1997 PM_{2.5} NAAQS. If this proposed determination is made final, the requirements for these areas to submit an attainment demonstration, associated reasonably available measures, a reasonable further progress plan, contingency measures, and other planning State Implementation Plans (SIPs) related to attainment of the standard shall be suspended for so long as each of these areas continue to meet the 1997 PM_{2.5} NAAQS.

DATES: Written comments must be received on or before August 31, 2009.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA-R03-OAR-2009-0199 by one of the following methods:

A. www.regulations.gov. Follow the online instructions for submitting comments.

B. *E-mail:*

fernandez.cristina@epa.gov.

C. *Mail:* EPA-R03-OAR-2009-0199, Cristina Fernandez, Chief, Air Quality Planning Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. *Hand Delivery:* At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA-R03-OAR-2009-0199. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at www.regulations.gov, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through www.regulations.gov or e-mail. The www.regulations.gov Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through www.regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic

comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the www.regulations.gov index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in www.regulations.gov or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

FOR FURTHER INFORMATION CONTACT: Jacqueline Lewis, (215) 814-2037, or by e-mail at lewis.jacqueline@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document whenever “we,” “us,” or “our” is used, we mean EPA.

Organization of this document. The following outline is provided to aid in locating information in this preamble.

- I. What Action Is EPA Taking?
- II. What Is the Effect of This Action?
- III. What Is the Background for This Action?
- IV. What Is EPA’s Analysis of the Relevant Air Quality Data?
- V. Proposed Action
- VI. Statutory and Executive Order Reviews

I. What Action Is EPA Taking?

EPA is proposing to determine that the Baltimore and the Maryland portion of the Hagerstown-Martinsburg, MD-WV PM_{2.5} nonattainment areas have clean data for the 1997 PM_{2.5} NAAQS. This determination is based upon quality assured, quality controlled, and certified ambient air monitoring data showing that these areas have monitored attainment of the 1997 PM_{2.5} NAAQS based on the 2006–2008 data. In addition, quality controlled and quality assured monitoring data for 2009 that are available in the EPA AQS database, but not yet certified, show that these areas continue to meet the 1997 PM_{2.5} NAAQS.

II. What Is the Effect of This Action?

If this determination is made final, under the provisions of EPA’s PM_{2.5} implementation rule (see 40 CFR section 51.1004(c)), the requirements for the Baltimore and the Maryland portion of the Hagerstown-Martinsburg, MD-WV PM_{2.5} nonattainment areas to submit an attainment demonstration, associated reasonably available control measures, a reasonable further progress plan, contingency measures, and any other planning SIPs related to attainment of the 1997 PM_{2.5} NAAQS would be suspended for so long as each area continues to meet the 1997 PM_{2.5} NAAQS.

As further discussed below, the proposed determination for the Baltimore, MD and for the Maryland portion of the Hagerstown-Martinsburg, MD-WV nonattainment areas would: (1) Suspend the requirements to submit for each area an attainment demonstration, associated reasonably available control measures (RACM) (including reasonably available control technologies (RACT)), a reasonable further progress (RFP) plan, contingency measures, and any other planning SIPs related to attainment of the 1997 PM_{2.5} NAAQS; (2) continue until such time, if any, that EPA subsequently determines that each area have violated the 1997 PM_{2.5} NAAQS; (3) be separate from, and not influence or otherwise affect, any future designation determination or requirements for the Baltimore and Hagerstown-Martinsburg, MD-WV PM_{2.5} nonattainment areas based on the 2006 PM_{2.5} NAAQS; and (4) remain in effect regardless of whether EPA designates these areas as nonattainment for purposes of the 2006 PM_{2.5} NAAQS. Furthermore, as described below, any such final determinations would not be equivalent to the redesignation of these areas to attainment based on the 1997 PM_{2.5} NAAQS.

If this rulemaking is finalized and EPA subsequently determines, after notice-and-comment rulemaking in the **Federal Register**, that the areas have violated the 1997 PM_{2.5} NAAQS, the basis for the suspension of the specific requirements, set forth at 40 CFR section 51.1004(c), would no longer exist, and these areas would thereafter have to address the pertinent requirements.

The determination that EPA proposes with this **Federal Register** notice, that the air quality data shows attainment of the 1997 PM_{2.5} NAAQS, is not equivalent to the redesignation of these areas to attainment. This proposed action, if finalized, would not constitute a redesignation to attainment under section 107(d)(3) of the Clean Air Act

(CAA), because we would not yet have an approved maintenance plan for these areas as required under section 175A of the CAA, nor a determination that these areas have met the other requirements for redesignation. The designation status of these areas would remain nonattainment for the 1997 PM_{2.5} NAAQS until such time as EPA determines that these areas meet the CAA requirements for redesignation to attainment.

This proposed action, if finalized, is limited to a determination that the Baltimore and the Maryland portion of the Hagerstown-Martinsburg MD-WV PM_{2.5} nonattainment areas have clean data for the 1997 PM_{2.5} NAAQS. The 1997 PM_{2.5} NAAQS became effective on July 18, 1997 (62 FR 36852) and are set forth at 40 CFR section 50.7. The 2006 PM_{2.5} NAAQS, which became effective on December 18, 2006 (71 FR 61144) are set forth at 40 CFR section 50.13. EPA is currently in the process of making designation determinations, as required by CAA section 107(d)(2), for the 2006 PM_{2.5} NAAQS. At this point, EPA has not made any designation determination for the Baltimore and Hagerstown-Martinsburg MD-WV PM_{2.5} nonattainment areas based on the 2006 PM_{2.5} NAAQS. This proposed determination, and any final determination, will have no effect on, and is not related to, any future designation determination that EPA may make based on the 2006 PM_{2.5} NAAQS for the Baltimore and Hagerstown-Martinsburg, MD-WV PM_{2.5} nonattainment areas. Conversely, any future designation determination of the Baltimore and Hagerstown-Martinsburg, MD-WV nonattainment areas, based on the 2006 PM_{2.5} NAAQS, will not have any effect on the determination proposed by this notice.

If this proposed determination is made final and the Baltimore and the Maryland portion of the Hagerstown-Martinsburg, MD-WV nonattainment areas continue to demonstrate attainment with the 1997 PM_{2.5} NAAQS, the requirements for the nonattainment areas to submit an attainment demonstration, associated reasonably available control measures, a reasonable further progress plan, contingency measures, and any other planning SIPs related to attainment of the 1997 PM_{2.5} NAAQS would remain suspended, regardless of whether EPA designates these areas as nonattainment areas for purposes of the 2006 PM_{2.5} NAAQS. Once these areas are designated for the 2006 NAAQS, they will have to meet all applicable requirements for that designation.

III. What Is the Background for This Action?

On July 18, 1997 (62 FR 36852), EPA established a health-based PM_{2.5} NAAQS at 15.0 micrograms per cubic meter (µg/m³) based on a 3-year average of annual mean PM_{2.5} concentrations, and a twenty-four hour standard of 65 µg/m³ based on a 3-year average of the 98th percentile of 24-hour concentrations. EPA established the standards based on significant evidence and numerous health studies demonstrating that serious health effects are associated with exposures to particulate matter. The process for designating areas following promulgation of a new or revised NAAQS is contained in section 107(d)(1) of the CAA. EPA and State air quality agencies initiated the monitoring process for the 1997 PM_{2.5} NAAQS in 1999, and developed all air quality monitors by January 2001. On January 5, 2005 (70 FR 944), EPA published its air quality designations and classifications

for the 1997 PM_{2.5} NAAQS based upon air quality monitoring data from those monitors for calendar years 2001–2003. These designations became effective on April 5, 2005. The Baltimore and Hagerstown-Martinsburg, MD-WV nonattainment areas were designated nonattainment for the 1997 PM_{2.5} NAAQS (see 40 CFR part 81).

IV. What Is EPA's Analysis of the Relevant Air Quality Data?

EPA has reviewed the ambient air monitoring data for PM_{2.5}, consistent with the requirements contained in 40 CFR part 50 and recorded in the EPA AQS database for the Baltimore and Hagerstown-Martinsburg, MD-WV PM_{2.5} nonattainment areas from 2006 through the present time. On the basis of that review, EPA has concluded that these areas meet the 1997 PM_{2.5} NAAQS based on the 2006–2008 data. In addition, quality controlled and quality assured monitoring data for 2009 that are available in the EPA AQS database, but not yet certified, show these areas

continue to attain the 1997 PM_{2.5} NAAQS.

Under EPA regulations at 40 CFR Part 50, section 50.7:

(1) The annual primary and secondary PM_{2.5} standards are met when the annual arithmetic mean concentration, as determined in accordance with 40 CFR Part 50, Appendix N, is less than or equal to 15.0 µg/m³.

(2) The 24-hour primary and secondary PM_{2.5} standards are met when the 98th percentile 24-hour concentration, as determined in accordance with 40 CFR Part 50, Appendix N, is less than or equal to 65 µg/m³.

Table 1.a shows the design values for the 1997 Annual PM_{2.5} NAAQS for the Baltimore nonattainment area monitors for the years 2006–2008. Table 1.b shows the design values for the 1997 Annual PM_{2.5} NAAQS for the Hagerstown-Martinsburg, MD-WV nonattainment area monitors for the years 2006–2008.

TABLE 1.a—DESIGN VALUES FOR COUNTIES IN THE BALTIMORE, MD NONATTAINMENT AREA FOR 1997 PM_{2.5} NAAQS—ANNUAL STANDARD

Location	AQS site ID	1997 annual attainment standard	2006–2008 design values
Anne Arundel County	24–003–1003	15	13.3
Baltimore County	24–005–1007	15	12.6
Baltimore County	24–005–3001	15	13.6
Harford County	24–025–1001	15	11.7
Baltimore City	24–510–0006	15	12.8
Baltimore City	24–510–0007	15	12.9
Baltimore City	24–510–0008	15	14
Baltimore City	24–510–0035	15	14.5
Baltimore City	24–510–0040	15	14

TABLE 1.b—DESIGN VALUES FOR THE HAGERSTOWN-MARTINSBURG, MD-WV NONATTAINMENT AREA FOR 1997 PM_{2.5} NAAQS—ANNUAL STANDARD

Location	AQS site ID	1997 Annual attainment standard	2006–2008 design values
Washington County, MD	24–043–0009	15	12.2
Berkeley County, WV	54–003–0003	15	14.9

Table 2.a shows the design values for the 1997 24-Hour PM_{2.5} NAAQS for these same monitors and the same 3-

year period. Table 2.b shows the design values for the 1997 24-Hour PM_{2.5}

NAAQS for these same monitors and the same 3-year period.

TABLE 2.a—DESIGN VALUES FOR COUNTIES IN THE BALTIMORE, MD NONATTAINMENT AREA FOR 1997 PM_{2.5} NAAQS—24-HOUR STANDARD

Location	AQS site ID	1997 Annual attainment standard	2006–2008 design values
Anne Arundel County	24–003–1003	65	34
Baltimore County	24–005–1007	65	32
Baltimore County	24–005–3001	65	33
Harford County	24–025–1001	65	29

TABLE 2.a—DESIGN VALUES FOR COUNTIES IN THE BALTIMORE, MD NONATTAINMENT AREA FOR 1997 PM_{2.5} NAAQS—24-HOUR STANDARD—Continued

Location	AQS site ID	1997 Annual attainment standard	2006–2008 design values
Baltimore City	24–510–0006	65	33
Baltimore City	24–510–0007	65	33
Baltimore City	24–510–0008	65	35
Baltimore City	24–510–0035	65	34
Baltimore City	24–510–0040	65	34

TABLE 2.b—DESIGN VALUES FOR THE HAGERSTOWN-MARTINSBURG, MD-WV NONATTAINMENT AREA FOR 1997 PM_{2.5} NAAQS—24-HOUR STANDARD

Location	AQS site ID	1997 24-Hour attainment standard	2005–2007 design values
Washington County, MD	24–043–0009	65	30
Berkeley County, WV	54–003–0003	65	31

EPA's reviews of these data indicate that the Baltimore, MD and Hagerstown-Martinsburg, MD-WV PM_{2.5} nonattainment areas have met and continue to meet the 1997 PM_{2.5} NAAQS. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action. Please note that if EPA received adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

V. What's EPA's Proposed Action?

EPA is proposing to determine that the Baltimore and the Maryland portion of the Hagerstown-Martinsburg, MD-WV nonattainment areas for the 1997 PM_{2.5} NAAQS have clean data for the 1997 PM_{2.5} NAAQS. As provided in 40 CFR section 51.1004(c), if EPA finalizes this determination, it would suspend the requirements for these areas to submit an attainment demonstration, associated reasonably available control measures, a reasonable further progress plan, contingency measures, and any other planning SIPs related to attainment of the 1997 PM_{2.5} NAAQS so long as these areas continue to meet the 1997 PM_{2.5} NAAQS.

VI. What Are the Statutory and Executive Order Reviews?

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the

provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely proposes to approve state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and

- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed determination that the Maryland portion of the Hagerstown-Martinsburg and the Baltimore nonattainment areas have clean data for the 1997 PM_{2.5} standard does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Particulate matter, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: July 23, 2009.

Judith M. Katz,

Acting Regional Administrator, Region III.
[FR Doc. E9–18394 Filed 7–30–09; 8:45 am]

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