

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.*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R03-OAR-2009-0506; FRL-8938-3]

#### Approval and Promulgation of Air Quality Implementation Plans; Commonwealth of Pennsylvania; 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 Johnstown (Cambria and Indiana Counties), Lancaster (Lancaster County), Reading (Berks County) and York (York County), Pennsylvania nonattainment areas for the 1997 fine particulate matter (PM<sub>2.5</sub>) National Ambient Air Quality Standard (NAAQS) have clean data for the 1997 PM<sub>2.5</sub> 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<sub>2.5</sub> 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<sub>2.5</sub> 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<sub>2.5</sub> 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-2009-0506 by one of the following methods:

A. <http://www.regulations.gov>. Follow the online instructions for submitting comments.

B. *E-mail:* [fernandez.cristina@epa.gov](mailto:fernandez.cristina@epa.gov).

C. *Mail:* EPA-R03-OAR-2009-0506, 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-2009-0506. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at <http://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 <http://www.regulations.gov> or e-mail. The <http://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 <http://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 <http://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 <http://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:** Rose Quinto, (215) 814-2182, or by e-mail at [quinto.rose@epa.gov](mailto:quinto.rose@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. What Is EPA's Proposed Action?
- VI. What Are the Statutory and Executive Order Reviews?

#### I. What Action Is EPA Taking?

EPA is proposing to determine that the Johnstown, Lancaster, Reading and York, Pennsylvania PM<sub>2.5</sub> nonattainment areas have clean data for the 1997 PM<sub>2.5</sub> 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<sub>2.5</sub> 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<sub>2.5</sub> NAAQS.

#### II. What Is the Effect of This Action?

If this determination is made final, under the provisions of EPA's PM<sub>2.5</sub> implementation rule (see 40 CFR 51.1004(c)), the requirements for the Johnstown, Lancaster, Reading and York, Pennsylvania PM<sub>2.5</sub> 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<sub>2.5</sub> NAAQS would be suspended for so long as each area continues to meet the 1997 PM<sub>2.5</sub> NAAQS.

As further discussed below, the proposed determination would: (1) For

the Johnstown, Lancaster, Reading and York, Pennsylvania PM<sub>2.5</sub> nonattainment areas, 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<sub>2.5</sub> NAAQS; (2) continue until such time, if any, that EPA subsequently determines that each area have violated the 1997 PM<sub>2.5</sub> NAAQS; (3) be separate from, and not influence or otherwise affect, any future designation determination or requirements for the Johnstown, Lancaster, Reading and York, Pennsylvania PM<sub>2.5</sub> nonattainment areas based on the 2006 PM<sub>2.5</sub> NAAQS; and (4) remain in effect regardless of whether EPA designates these areas as nonattainment areas for purposes of the 2006 PM<sub>2.5</sub> 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<sub>2.5</sub> NAAQS.

If this rulemaking is finalized and EPA subsequently determines, after notice-and-comment rulemaking in the **Federal Register**, that these areas have violated the 1997 PM<sub>2.5</sub> NAAQS, the basis for the suspension of the specific requirements, set forth at 40 CFR 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 show attainment of the 1997 PM<sub>2.5</sub> 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<sub>2.5</sub> 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 Johnstown, Lancaster, Reading and York, Pennsylvania PM<sub>2.5</sub>

nonattainment areas have clean data for the 1997 PM<sub>2.5</sub> NAAQS. The 1997 PM<sub>2.5</sub> NAAQS became effective on July 18, 1997 (62 FR 36852) and are set forth at 40 CFR 50.7. The 2006 PM<sub>2.5</sub> 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)(1), for the 2006 PM<sub>2.5</sub> NAAQS.

At this point, EPA has not made any designation determination for the Johnstown, Lancaster, Reading and York, Pennsylvania PM<sub>2.5</sub> nonattainment areas based on the 2006 PM<sub>2.5</sub> 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<sub>2.5</sub> NAAQS for these Pennsylvania PM<sub>2.5</sub> nonattainment areas. Conversely, any future designation determination of these Pennsylvania PM<sub>2.5</sub> nonattainment areas based on the 2006 PM<sub>2.5</sub> NAAQS, will not have any effect on the determination proposed by this notice.

If this proposed determination is made final and the Johnstown, Lancaster, Reading and York, Pennsylvania PM<sub>2.5</sub> nonattainment areas continue to demonstrate attainment with the 1997 PM<sub>2.5</sub> NAAQS, the requirements for these Pennsylvania PM<sub>2.5</sub> 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<sub>2.5</sub> NAAQS would remain suspended, regardless of whether EPA designates these areas as nonattainment areas for purposes of the 2006 PM<sub>2.5</sub> 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<sub>2.5</sub> NAAQS at 15.0 micrograms per cubic meter ( $\mu\text{g}/\text{m}^3$ ) based on a 3-year average of annual mean PM<sub>2.5</sub> concentrations, and a twenty-four hour standard of 65  $\mu\text{g}/\text{m}^3$  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<sub>2.5</sub> 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<sub>2.5</sub> NAAQS based upon air quality monitoring data from those monitors for calendar years 2001–2003. These designations became effective on April 5, 2005. The Johnstown, Lancaster, Reading and York, Pennsylvania nonattainment areas were designated nonattainment for the 1997 PM<sub>2.5</sub> 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<sub>2.5</sub> consistent with the requirements contained in 40 CFR part 50 and recorded in the EPA AQS database for the Johnstown, Lancaster, Reading and York, Pennsylvania PM<sub>2.5</sub> nonattainment areas from 2006 through the present time. On the basis of that review, EPA has concluded that these areas meet the 1997 PM<sub>2.5</sub> 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 attain the 1997 PM<sub>2.5</sub> NAAQS.

Under EPA regulations at 40 CFR part 50, § 50.7:

(1) The annual primary and secondary PM<sub>2.5</sub> 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  $\mu\text{g}/\text{m}^3$ .

(2) The 24-hour primary and secondary PM<sub>2.5</sub> 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  $\mu\text{g}/\text{m}^3$ .

Table 1 shows the design values for the 1997 24-hour PM<sub>2.5</sub> NAAQS for Johnstown, Lancaster, Reading and York, Pennsylvania PM<sub>2.5</sub> nonattainment area monitors for the years 2006–2008. Table 2 shows the design values for the 1997 annual PM<sub>2.5</sub> NAAQS for these same monitors and the same three-year period.

TABLE 1—DESIGN VALUES FOR THE 1997 24-HOUR PM<sub>2.5</sub> NAAQS FOR JOHNSTOWN, LANCASTER, READING AND YORK, PENNSYLVANIA IN MICROGRAMS PER CUBIC METER (µg/m<sup>3</sup>)

Location	AQS site ID	1997 24-Hour attainment standard	2006–2008 Design values
Cambria County (Johnstown, PA) .....	42–021–0011	65	35
Lancaster County (Lancaster, PA) .....	42–071–0007	65	37
Berks County (Reading, PA) .....	42–011–0011	65	34
York County (York, PA) .....	42–133–0008	65	35

TABLE 2—DESIGN VALUES FOR THE 1997 ANNUAL PM<sub>2.5</sub> NAAQS FOR JOHNSTOWN, LANCASTER, READING AND YORK, PENNSYLVANIA IN MICROGRAMS PER CUBIC METER (µg/m<sup>3</sup>)

Location	AQS site ID	1997 Annual attainment standard	2006–2008 Design values
Cambria County (Johnstown, PA) .....	42–021–0011	15.0	14.4
Lancaster County (Lancaster, PA) .....	42–071–0007	15.0	14.5
Berks County (Reading, PA) .....	42–011–0011	15.0	13.6
York County (York, PA) .....	42–133–0008	15.0	14.6

EPA’s review of these data indicate that the Johnstown, Lancaster, Reading and York, Pennsylvania PM<sub>2.5</sub> nonattainment areas have met and continue to meet the 1997 PM<sub>2.5</sub> 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 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.

**V. What Is EPA’s Proposed Action?**

EPA is proposing to determine that the Johnstown, Lancaster, Reading and York, Pennsylvania nonattainment areas for the 1997 PM<sub>2.5</sub> NAAQS have clean data for the 1997 PM<sub>2.5</sub> NAAQS. As provided in 40 CFR 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<sub>2.5</sub> NAAQS so long as these areas continue to meet the 1997 PM<sub>2.5</sub> NAAQS.

**VI. What Are the Statutory and Executive Order Reviews?**

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA 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 CAA. 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 (Pub. L. 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 CAA; 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 rule pertaining to the determination of the 1997 fine particle standard for the Johnstown, Lancaster, Reading and York, Pennsylvania PM<sub>2.5</sub> nonattainment areas, 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.

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

Dated: July 24, 2009.

**Judith M. Katz,**

*Acting Regional Administrator, Region III.*

[FR Doc. E9–18341 Filed 7–30–09; 8:45 am]

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