

(4) The Office may require the owner to furnish such specimens, information, exhibits, and affidavits or declarations as may be reasonably necessary to the proper examination of the amendment.

* * * * *

PART 7—RULES OF PRACTICE IN FILINGS PURSUANT TO THE PROTOCOL RELATING TO THE MADRID AGREEMENT CONCERNING THE INTERNATIONAL REGISTRATION OF MARKS

■ 10. The authority citation for 37 CFR part 7 continues to read as follows:

Authority: 15 U.S.C. 1123, 35 U.S.C. 2, unless otherwise noted.

■ 11. Amend § 7.37 by revising paragraph (g) and adding paragraph (h) to read as follows:

§ 7.37 Requirements for a complete affidavit or declaration of continued use or excusable nonuse.

* * * * *

(g) Include a specimen showing current use of the mark for each class of goods or services, unless excusable nonuse is claimed under § 7.37(f)(2). When requested by the Office, additional specimens must be provided. The specimen must meet the requirements of § 2.56 of this chapter.

(h) The Office may require the holder to furnish such information, exhibits, affidavits or declarations, and such additional specimens:

(1) As may be reasonably necessary to the proper examination of the affidavit or declaration under section 71 of the Act; or

(2) For the Office to assess the accuracy and integrity of the register.

(3) The provisions of paragraph (h)(2) of this section will no longer be applied after June 21, 2014.

Dated: May 15, 2012.

David J. Kappos,

Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

[FR Doc. 2012-12178 Filed 5-21-12; 8:45 am]

BILLING CODE 3510-16-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R03-OAR-2011-0819; FRL-9674-5]

Approval and Promulgation of Air Quality Implementation Plans; Maryland; Baltimore Nonattainment Area Determinations of Attainment of the 1997 Annual Fine Particulate Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is taking action to finalize two separate and independent determinations regarding the fine particulate matter (PM_{2.5}) nonattainment area of Baltimore (hereafter referred to as the “Baltimore Area” or “Area”). First, EPA is determining that the Baltimore Area has attained the 1997 annual PM_{2.5} National Ambient Air Quality Standard (NAAQS) under the Clean Air Act (CAA). This determination is based upon complete, quality-assured, and certified ambient air monitoring data for the 2008–2010 monitoring period showing that the Area has monitored attainment of the 1997 annual PM_{2.5} NAAQS, and data available to date for 2011 in EPA’s Air Quality System (AQS) database showing that the Area continues to attain. Under EPA’s PM_{2.5} implementation regulations, this final determination suspends obligation of the Area to submit an attainment demonstration and associated reasonably available control measures and reasonably available control technologies (RACM/RACT), a reasonable further progress (RFP) plan, contingency measures, and other planning State Implementation Plan (SIP) revisions related to the attainment of the standard for so long as the Area continues to attain the 1997 annual PM_{2.5} NAAQS. EPA is also determining, based on complete quality-assured and certified monitoring data for the 2007–2009 monitoring period, that the Area attained the 1997 annual PM_{2.5} NAAQS by its applicable attainment date of April 5, 2010. In addition, EPA is withdrawing its July 31, 2009 (74 FR 38161) proposed determination of attainment for the Baltimore Area, because more recent monitoring data has become available. EPA is finalizing a determination of attainment for the Baltimore Area, in accordance with the requirements of the (CAA).

DATES: This final rule is effective on June 21, 2012.

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA-R03-OAR-2011-0819. All documents in the docket are listed in the www.regulations.gov Web site. Although listed in the electronic docket, some information is not publicly available, i.e., confidential business information (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 through www.regulations.gov or in hard copy for public inspection 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: Emlyn Vélez-Rosa, (215) 814-2038, or by email at velez-rosa.emlyn@epa.gov.

SUPPLEMENTARY INFORMATION:

Throughout this document, whenever “we,” “us,” or “our” is used, we mean EPA. This supplementary information section is arranged as follows:

- I. Background
- II. What is EPA’s analysis of the relevant air quality data?
- III. Summary of Public Comment and EPA Response
- IV. Final Action

I. Background

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 (hereafter referred to as “the annual PM_{2.5} NAAQS” or “the annual standard”). At that time, EPA also established a 24-hour standard of 65 µg/m³ (the “1997 24-hour standard”). See 40 CFR 50.7. 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 Area was designated nonattainment for the 1997 PM_{2.5} NAAQS during this designations process. See 40 CFR 81.321 (Maryland).

On October 17, 2006 (71 FR 61144), EPA retained the 1997 annual PM_{2.5} NAAQS at 15.0 µg/m³ based on a 3-year average of annual mean PM_{2.5} concentrations, and promulgated a 24-hour standard of 35 µg/m³ based on a 3-year average of the 98th percentile of 24-hour concentrations (the “2006 24-hour standard”). On November 13, 2009, EPA designated the Baltimore

Area as attainment for the 2006 24-hour standard. In that action, EPA also clarified the designations for the PM_{2.5} NAAQS promulgated in 1997, stating that the Baltimore Area was attainment for the 1997 24-hour standard (74 FR 58688). Today's action, however, does not address either the 1997 or the 2006 24-hour standard.

In response to legal challenges of the annual standard promulgated in 2006, the U.S. Court of Appeals for the District of Columbia Circuit (DC Circuit) remanded this standard to EPA for further consideration. See *American Farm Bureau Federation and National Pork Producers Council, et al. v. EPA*, 559 F.3d 512 (DC Cir. 2009). However, given that the 1997 and 2006 annual standards are essentially identical, attainment of the 1997 annual standard would also indicate attainment of the remanded 2006 annual standard.

On April 25, 2007 (72 FR 20664), EPA promulgated its PM_{2.5} implementation rule, codified at 40 CFR part 51, subpart Z, in which EPA provided guidance for state and tribal plans to implement the 1997 PM_{2.5} standard. This rule, at 40 CFR 51.1004(c), specifies some of the regulatory consequences of attaining the standard, as discussed later.

Under CAA section 179(c), EPA is required to make a determination that a PM_{2.5} nonattainment area has attained by its applicable attainment date, and publish that determination in the **Federal Register**. On November 23, 2011 (76 FR 72374), EPA published a notice of proposed rulemaking (NPR) for the State of Maryland, proposing to determine that the Baltimore Area has attained the 1997 annual PM_{2.5} NAAQS, based on the most recent three years of complete, quality-assured and certified data and data available to date for 2011. EPA also proposed, based on complete, quality-assured and certified data for 2007–2009 that the Area attained the 1997 annual PM_{2.5} NAAQS by its applicable attainment date of April 5, 2010. EPA's determinations are in accordance with the CAA, EPA's PM_{2.5} Implementation Rule of April 25, 2007 (72 FR 20664), and other applicable regulations. During the comment period on its proposed determinations, EPA received a comment letter from Earthjustice on December 23, 2011. A summary of the comments submitted by Earthjustice and EPA's responses are provided in section III of this document.

II. 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 based on data from the

EPA AQS database for the Baltimore Area, for the monitoring periods of 2007–2009, 2008–2010, and for data available to date for 2011. Based upon the most recent three years of complete, quality-assured, quality-controlled, and certified ambient air monitoring data as well as the data available to date for 2011, EPA determines that the Baltimore Area has monitored attainment of the 1997 annual PM_{2.5} standard. EPA also determines, based on complete, quality-assured and certified 2007–2009 monitoring data, that the Area attained the 1997 annual PM_{2.5} NAAQS by its applicable attainment date of April 5, 2010.

Under EPA regulations at 40 CFR 50.7(b), 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. The values calculated in accordance with 40 CFR part 50, appendix N, are referred to as design values, and these values are used to determine if an area is attaining the PM_{2.5} NAAQS.

The air quality monitoring network design criteria, established in 40 CFR part 58 appendix D, describe the specific requirements for the number and location of Federal Reference Method (FRM), Federal Equivalent Method (FEM), and Approved Regional Method (ARM) monitoring sites for specific pollutants. The network criteria apply to the Baltimore-Towson, Maryland Metropolitan Statistical Area (hereby "the Baltimore MSA"), which consists of Baltimore City and the counties of Anne Arundel, Baltimore, Carroll, Harford, Howard, and Queen Anne's. Metropolitan areas are determined using the statistical-based definitions provided by the Office of Management and Budget and the Census Bureau. Section 4.7.1 of appendix D requires the Baltimore MSA network to operate at a minimum two PM_{2.5} monitoring sites. Currently, the Baltimore MSA network consists of eight PM_{2.5} FRM monitors and one PM_{2.5} FEM monitor. Thus, EPA has determined that the PM_{2.5} monitoring network in the Baltimore MSA is adequate, in accordance with 40 CFR part 58, appendix D.

Additionally, EPA has determined that the PM_{2.5} Baltimore MSA monitoring network meets all relevant criteria specified in 40 CFR part 58 and is in accordance with the monitoring network plans that have been reviewed and approved by EPA on an annual basis. Additional information about the monitoring network and air quality data

was included in the Technical Support Document (TSD) for this action which is available online at www.regulations.gov, Docket number EPA–R03–OAR–2011–0819.

III. Summary of Public Comment and EPA Response

The commenter, Earthjustice, objected generally to EPA's proposed attainment determination for the 1997 annual PM_{2.5} NAAQS for the Baltimore nonattainment area, on the basis that such determination relies on deficient monitoring data. The commenter asserts that there are various deficiencies with the monitoring network and data.

Comment: The commenter contended that there were specific deficiencies with the monitoring network, citing Maryland's 5-Year Network Assessment. The commenter asserts that Maryland has not assured that adequate mandatory continuous monitors for PM_{2.5} are in place in the Baltimore MSA as required by 40 CFR part 58 appendix D, section 4.7.2. The commenter asserts that Maryland Department of Environment (MDE) explains in its assessment that failure to meet these requirements is caused by a "technicality" while testing a continuous monitor, AQS ID: 24–510–0040 (Oldtown), in the Baltimore MSA. The commenter indicates it is unclear whether the affected monitor was collecting adequate continuous PM_{2.5} data during this testing period and whether this data was used in the clean data finding.

Response: The network design criteria, in 40 CFR part 58, appendix D, section 4.7.2, requires that the State must operate in the PM_{2.5} network continuous monitors that are at least one-half of the minimum number of the required sites, of which at least one must be collocated with a required FRM monitor. According to Table D–5 of appendix D, the Baltimore MSA is required to have a minimum of two PM_{2.5} monitoring sites, and thus is required to have one continuous monitor in the network. To meet this requirement, one PM_{2.5} Beta Attenuation Mass (BAM) FEM monitor is operated in the Baltimore MSA monitoring network which is collocated with an FRM monitor at the monitoring site AQS ID: 24–510–0040 (Oldtown).

During July 2008 thru July 2010, the continuous BAM FEM monitor was tested to ensure that it was operating properly. Thus, during this time the continuous monitor was designated as a Special Purpose Monitor (SPM). The test consisted of a correlation study to compare the data from the FRM monitor with the continuous BAM FEM data.

The study showed that the data being collected by the continuous BAM FEM monitor correlated sufficiently well, and therefore, continuous PM_{2.5} data from the Oldtown site was shown to be adequate. As a result, as of July 2010, the continuous monitor was no longer designated as an SPM, and is now considered a collocated monitor. The continuous BAM FEM monitor is currently collocated with an FRM monitor at the Oldtown site and data from these monitors during 2008–2010 is presented in Table 1.

Because Oldtown is a middle scale station which has not been determined to be a population-oriented site

representative of many such locations throughout the Baltimore MSA, the data from that site is not used for comparison to the annual PM_{2.5} NAAQS. See 40 CFR 58.30. Although the Oldtown monitoring site was not considered for the attainment determination, the monitoring data from Oldtown recorded PM_{2.5} levels below the level of the annual PM_{2.5} NAAQS during the time period of 2008–2010. Similarly, the 2011 preliminary data from both the FRM and BAM FEM in Oldtown showed levels below the annual PM_{2.5} NAAQS. See the publicly available FRM/FEM data comparison tool

provided by EPA at http://www.epa.gov/airquality/airdata/ad_rep_frmvfem.html. This tool shows that the FRM and continuous BAM FEM at the Oldtown site have good comparability. For additional information about testing continuous monitors, see the Technical Memorandum, “Implementing Continuous PM_{2.5} Federal Equivalent Methods (FEMs) and Approved Regional Methods (ARMS) in State or Local Air Monitoring Station (SLAMS) Networks,” in <http://www.epa.gov/ttn/airs/airsaqs/memos/Use%20of%20PM2.5%20FEMS%20and%20ARMS%20in%20SLAMS%20Network.pdf>.

TABLE 1—MONITORING SITE ID. NO. 24–510–0040 (OLDTOWN) 2008–2010 PM_{2.5} DATA (IN µG/M³)

Site name	Site ID	2008 Annual mean	2009 Annual mean	2010 Annual mean	2010 Design value	2011 Annual mean**
Maryland Oldtown	24–510–0040 POC 1	12.8	11.2	11.2	11.7	11.7
Maryland Oldtown continuous	24–510–0040 POC 3	13.7*	12.1	12.7	12.8	13.1

* Incomplete data for 2008.

** Based on preliminary data for 2011.

Comment: The commenter raises, with regard to the monitoring network adequacy of the Baltimore MSA, that, as of September 2010, Maryland had not satisfied the requirement to designate a monitoring station in the Baltimore MSA as a maximum PM_{2.5} concentration site. Id. 40 CFR part 58, appendix D, section 4.7.1(b)(1). MDE’s 5-year network assessment states that it planned to classify the monitoring site Id. No. 24–510–0040 (Oldtown) as the highest concentration PM_{2.5} site for the Baltimore MSA. See Maryland 5-Year Network Assessment.

Response: Maryland satisfies the maximum PM_{2.5} concentration site requirements, set forth in 40 CFR part 58, appendix D, section 4.7.1(b)(1) for the Baltimore MSA which requires at least one monitoring station at a population-oriented area of maximum concentration. The Maryland 5-Year Network assessment identifies two possible locations in the Baltimore MSA as highest concentration: the Oldtown monitoring station and the Fire Station 20 monitoring station, AQS ID 245100008 (see Maryland 5-Year Network Assessment, page 53). Data from the Fire Station 20, which is a neighborhood scale site representing community wide air quality, was used in the determination of attainment. However, because Oldtown does not meet the siting requirements for comparing the data to the annual PM_{2.5} NAAQS, the monitoring data from that site was not used in the determination

of attainment. Even if the data from the Oldtown monitoring was eligible for comparison to the annual PM_{2.5} NAAQS, it shows that the site is attaining the annual PM_{2.5} NAAQS. See Table 1.

Comment: The commenter asserts that by not using the monitoring data from site Id. No. 24–510–0040 (Oldtown), EPA’s attainment determination is inconsistent with the 1992 EPA Guidance regarding NAAQS attainment determinations. See Memorandum of September 4, 1992 from John Calcagni, Director, Air Quality Management Division, to EPA Air Division Directors, “Procedures for Processing Requests to Redesignate Areas to Attainment.” This memorandum explicitly states that data used to demonstrate attainment “should be the product of ambient monitoring that is representative of the area of highest concentration.”

Response: EPA did use monitoring data from a population oriented monitoring site of expected maximum concentration, i.e., the Fire Station 20 monitoring site (AQS ID: 24–510–0008). As part of this assessment, data for 2008–2010 from Fire Station 20 site show concentration levels that are below the level of the annual PM_{2.5} NAAQS at this maximum concentration site. Because the monitoring site Id. No. 24–510–0040 (Oldtown) is not a population oriented monitor representative of community wide air quality, the data from that site is not eligible for comparison to the annual

PM_{2.5} NAAQS. Moreover, monitoring data from site Id. No. 24–510–0040 (Oldtown) is currently used in determining Baltimore Area’s compliance with the PM_{2.5} 24-hour NAAQS. Additionally, even if EPA had reviewed data from the Oldtown location for comparison to the annual PM_{2.5} NAAQS, the data for 2008–2010 reflects that the concentration levels at the site are below the level of the annual PM_{2.5} NAAQS at this location. Thus, this would not have changed EPA’s action to find that the Baltimore nonattainment area currently is attaining the NAAQS. The Oldtown data is provided in Table 1, but was not used in determining attainment of the Baltimore Area for the annual PM_{2.5} NAAQS.

Comment: The commenter asserts that MDE did not provide reasoned justification that the existing monitoring network was sufficient to capture representative PM_{2.5} concentrations and populations exposures for Baltimore City, after removing the monitor ID 24–510–0035 (FMC-Fairfield), which was originally classified as a neighborhood monitor.

Response: The Baltimore MSA has an adequate PM_{2.5} monitoring network. 40 CFR part 58, appendix D requires two monitors in the Baltimore MSA, which currently has eight monitors in place. Further, the monitoring network meets all relevant criteria specified in part 58 and is in accordance with the monitoring network plans that have

been reviewed and approved by EPA on an annual basis.

The FMC-Fairfield monitor was shut down due to the demolition of the FMC-Fairfield Agricultural Plant. At the time of the FMC-Fairfield closure in 2008, the FMC-Fairfield monitor was showing annual means that attained the annual PM_{2.5} standard. Because the Baltimore MSA already had sufficient number of PM_{2.5} monitors in its network, MDE did not need to relocate the FMC-Fairfield monitor to another site. Also, contrary to commenter's assertion, EPA's supporting documents include sufficient justification for removing the monitor from this location. See TSD attachments, "MDE's Analysis regarding Closure of the FMC PM_{2.5} Monitor" and "Notification by Maryland Department of the Environment (MDE) regarding the closure of the FMC PM_{2.5} Monitor." MDE explained that the FMC-Fairfield monitoring site was no longer meeting the population-oriented siting requirements that reflect community wide air quality. When originally located, the FMC-Fairfield monitor met these siting requirements. However, conditions around the monitor location changed over time and the 2000 census data shows that the population density around the FMC-Fairfield monitor has declined. FMC-Fairfield, thus, no longer met its intended purpose of providing data for neighborhood scale/population exposure. Data from the monitoring site ID 24-510-0035 (FMC-Fairfield) was comparable to the monitoring site Id. No. 24-510-0008 (Fire Station 20). Since 2008, Fire Station 20 has shown annual PM_{2.5} means below the annual NAAQS.

Comment: The commenter asserts that the monitoring site Id. No. 24-510-0008 (Fire Station 20), which they believe is representative of the communities surrounding the FMC-Fairfield monitoring site, did not satisfy the completeness criteria for the 2010 period.

Response: The commenter's statement that the data at monitor location Id. No. 24-510-0008 (Fire Station 20) does not satisfy the completeness criteria for 2010 is incorrect. As explained in the TSD, the missing data from the primary monitor at this location for the first quarter of 2010 was replaced with data from a collocated monitor at the same site location to meet the completeness monitoring data requirement of 40 CFR part 50, appendix N. Missing data from a primary monitor at a site does not necessarily mean that the data at the monitoring site is incomplete. When data from a collocated monitor is used to substitute for missing data at a primary monitor, the data at the monitor

location is considered to be complete if EPA regulations and guidance are followed for performing the necessary data substitution. Specifically, section 3.0 of 40 CFR part 50, appendix N specifies that if a valid 24-hour measurement is not produced from the primary monitor for a particular day, but a valid sample is generated by a collocated monitor, then that collocated value shall be considered part of the site data. In order to replace the missing data, the collocated substitution was followed, in accordance with the procedures explained in "Guideline on Data Handling Conventions for the PM NAAQS," EPA-454/R-99-008 (April 1999). The substitution requires replacing the missing data from the primary monitor with collocated data for the same year and quarter, provided that the site has valid data for at least 50 percent of the scheduled number of samples for each quarter for all three years, and that the emissions and meteorology for the quarters to be substituted are comparable to the emissions and meteorology for the quarters in question. Air quality data from Fire Station 20 monitoring site met these criteria and thus the collocated data sampled at the site was used to complete the missing data from the primary monitor. Therefore, monitoring site Id. No. 24-510-0008 (Fire Station 20) has complete data for the year 2010.

IV. Final Action

First, EPA determines that Baltimore Area has attained the 1997 annual PM_{2.5} NAAQS, based on the complete, quality assured and certified data from 2008-2010, and data available to date in AQS for 2011. Pursuant to 40 CFR 51.1004(c), this determination of attainment will suspend the requirements for Maryland to submit for the Baltimore Area an attainment demonstration and associated RACM/RACT, RFP plan, contingency measures, and other planning SIP revisions related to the attainment of the standard for so long as the Area continues to attain the 1997 annual PM_{2.5} NAAQS. In addition, EPA is finalizing a separate and independent determination that the Baltimore Area attained the 1997 annual PM_{2.5} standard by the applicable attainment date of April 5, 2010, thereby satisfying EPA's obligation pursuant to section 179(c)(1) of the CAA to make a determination of whether the Area attained the standard by the applicable attainment date.

Finalizing this action does not constitute a redesignation of the Baltimore Area to attainment for the 1997 annual PM_{2.5} NAAQS under CAA section 107(d)(3). Further, finalizing this action does not involve approving a

maintenance plan for the Baltimore Area, nor does it involve a determination that the Area has met all the requirements for redesignation under the CAA. Therefore, the designation status of the Baltimore PM_{2.5} nonattainment area will remain nonattainment for the 1997 annual PM_{2.5} NAAQS until such time as EPA takes final rulemaking action to determine that such portions meet the CAA requirements for redesignation to attainment.

V. Statutory and Executive Order Reviews

A. General Requirements

This action finalizes attainment determinations based on air quality data and does not impose any additional requirements. For that reason, this 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 rule 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.

B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

C. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 23, 2012. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This determination that the Baltimore Area has attained the 1997 p.m._{2.5} NAAQS may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

Dated: May 8, 2012.

W.C. Early,

Acting, Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

■ 1. The authority citation for part 52 continues to read as follows:

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

Subpart V—Maryland

■ 2. Section 52.1081 is amended by adding paragraph (c) to read as follows:

§ 52.1081 Control strategy: Particulate matter.

* * * * *

(c) *Determination of Attainment.* EPA has determined, as of May 22, 2012, based on ambient air quality data of 2008 to 2010 and the preliminary data of 2011, that the PM_{2.5} nonattainment area of Baltimore, Maryland has attained the 1997 annual PM_{2.5} NAAQS. This determination, in accordance with 40 CFR 51.1004(c), suspends the requirements for this area to submit an attainment demonstration, associated reasonably available control measures, a reasonable further progress plan, contingency measures, and other planning SIPs related to attainment of the standard for as long as this area continues to meet the 1997 annual PM_{2.5} NAAQS.

■ 3. Section 52.1082 is amended by adding paragraph (e) to read as follows:

§ 52.1082 Determinations of attainment.

* * * * *

(e) Based upon EPA’s review of the air quality data for the 3-year period 2007 to 2009, EPA determined that the PM_{2.5} nonattainment area of Baltimore, Maryland attained the 1997 annual PM_{2.5} NAAQS by the applicable attainment date of April 5, 2010. Therefore, EPA has met the requirement pursuant to CAA section 179(c) to determine, based on the area’s air quality as of the attainment date, whether the area attained the NAAQS. EPA has also determined that the PM_{2.5} nonattainment area of Baltimore, Maryland is not subject to the consequences of failing to attain pursuant to section 179(d).

[FR Doc. 2012–12230 Filed 5–21–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R01–OAR–2009–0689; FRL–9674–4]

Approval and Promulgation of Air Quality Implementation Plans; Vermont; Regional Haze

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a revision to the Vermont State Implementation Plan (SIP) that addresses regional haze for the

first planning period from 2008 through 2018. The revision was submitted by the Vermont Department of Environmental Conservation (VT DEC) on August 26, 2009, with a supplemental submittal on January 3, 2012. This revision addresses the requirements of the Clean Air Act (CAA) and EPA’s regulations that require States to prevent any future, and remedy any existing, manmade impairment of visibility in mandatory Class I Areas caused by emissions of air pollutants from numerous sources located over a wide geographic area (also referred to as the “regional haze program”).

DATES: *Effective Date:* This rule is effective on June 21, 2012.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R01–OAR–2009–0689. All documents in the docket are listed on the www.regulations.gov Web site. 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 through www.regulations.gov or in hard copy at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, Office of Ecosystem Protection, Air Quality Planning Unit, 5 Post Office Square—Suite 100, Boston, MA. EPA requests that if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office’s official hours of business are Monday through Friday, 8:30 to 4:30, excluding legal holidays.

Copies of the documents relevant to this action are also available for public inspection during normal business hours, by appointment at the Air Pollution Control Division, Agency of Natural Resources, Building 3 South, 103 South Main Street, Waterbury, VT 05676.

FOR FURTHER INFORMATION CONTACT: Anne McWilliams, Air Quality Unit, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square—Suite 100, (Mail Code OEP05–02), Boston, MA 02109—3912, telephone number (617) 918–1697, fax number (617) 918–0697, email mcwilliams.anne@epa.gov.

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