

Dated: November 9, 2010.

**Robert C. McFetridge,**

*Director of Regulation Policy and Management, Office of the General Counsel.*

■ For the reasons stated in the preamble, the Department of Veterans Affairs amends 38 CFR part 17 as follows:

#### **PART 17—MEDICAL**

■ 1. Revise the authority citation for part 17 to read as follows:

**Authority:** 38 U.S.C. 501, and as noted in specific sections.

■ 2. Revise § 17.106 to read as follows:

#### **§ 17.106 VA response to disruptive behavior of patients.**

(a) *Definition.* For the purposes of this section:

*VA medical facility* means VA medical centers, outpatient clinics, and domiciliaries.

(b) *Response to disruptive patients.* The time, place, and/or manner of the provision of a patient's medical care may be restricted by written order of the Chief of Staff of the VA Medical Center of jurisdiction or his or her designee if:

(1) The Chief of Staff or designee determines pursuant to paragraph (c) of this section that the patient's behavior at a VA medical facility has jeopardized or could jeopardize the health or safety of other patients, VA staff, or guests at the facility, or otherwise interfere with the delivery of safe medical care to another patient at the facility;

(2) The order is narrowly tailored to address the patient's disruptive behavior and avoid undue interference with the patient's care;

(3) The order is signed by the Chief of Staff or designee, and a copy is entered into the patient's permanent medical record;

(4) The patient receives a copy of the order and written notice of the procedure for appealing the order to the Network Director of jurisdiction as soon as possible after issuance; and

(5) The order contains an effective date and any appropriate limits on the duration of or conditions for continuing the restrictions. The Chief of Staff or designee may order restrictions for a definite period or until the conditions for removing conditions specified in the order are satisfied. Unless otherwise stated, the restrictions imposed by an order will take effect upon issuance by the Chief of Staff or designee. Any order issued by the Chief of Staff or designee shall include a summary of the pertinent facts and the bases for the Chief of Staff's or designee's determination regarding the need for restrictions.

(c) *Evaluation of disruptive behavior.* In making determinations under paragraph (b) of this section, the Chief of Staff or designee must consider all pertinent facts, including any prior counseling of the patient regarding his or her disruptive behavior or any pattern of such behavior, and whether the disruptive behavior is a result of the patient's individual fears, preferences, or perceived needs. A patient's disruptive behavior must be assessed in connection with VA's duty to provide good quality care, including care designed to reduce or otherwise clinically address the patient's behavior.

(d) *Restrictions.* The restrictions on care imposed under this section may include but are not limited to:

(1) Specifying the hours in which nonemergent outpatient care will be provided;

(2) Arranging for medical and any other services to be provided in a particular patient care area (e.g., private exam room near an exit);

(3) Arranging for medical and any other services to be provided at a specific site of care;

(4) Specifying the health care provider, and related personnel, who will be involved with the patient's care;

(5) Requiring police escort; or

(6) Authorizing VA providers to terminate an encounter immediately if certain behaviors occur.

(e) *Review of restrictions.* The patient may request the Network Director's review of any order issued under this section within 30 days of the effective date of the order by submitting a written request to the Chief of Staff. The Chief of Staff shall forward the order and the patient's request to the Network Director for a final decision. The Network Director shall issue a final decision on this matter within 30 days. VA will enforce the order while it is under review by the Network Director. The Chief of Staff will provide the patient who made the request written notice of the Network Director's final decision.

**Note to § 17.106:** Although VA may restrict the time, place, and/or manner of care under this section, VA will continue to offer the full range of needed medical care to which a patient is eligible under title 38 of the United States Code or Code of Federal Regulations. Patients have the right to accept or refuse treatments or procedures, and such refusal by a patient is not a basis for restricting the provision of care under this section.

(Authority: 38 U.S.C. 501, 901, 1721)

[FR Doc. 2010-28711 Filed 11-15-10; 8:45 am]

**BILLING CODE 8320-01-P**

## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 52**

[Docket No. EPA-R02-OAR-2010-0872; FRL-9225-8]

#### **Adequacy Status of the Submitted 2009 PM<sub>2.5</sub> Motor Vehicle Emission Budgets for Transportation Conformity Purposes for the New York Portions of New York-Northern New Jersey-Long Island, NY-NJ-CT PM<sub>2.5</sub> Nonattainment Area; New York**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Finding of adequacy.

**SUMMARY:** In this document, EPA is notifying the public that it has found the motor vehicle emissions budgets for PM<sub>2.5</sub> and NO<sub>x</sub> in the submitted attainment demonstration state implementation plans for the New York portion of the New York-Northern New Jersey-Long Island, NY-NJ-CT PM<sub>2.5</sub> nonattainment area to be adequate for transportation conformity purposes. The transportation conformity rule requires that the EPA conduct a public process and make an affirmative decision on the adequacy of budgets before they can be used by metropolitan planning organizations in conformity determinations. As a result of our finding, the New York Metropolitan Transportation Council (excluding Putnam County) and the Orange County Transportation Council must use the new 2009 PM<sub>2.5</sub> budgets for future transportation conformity determinations.

**DATES:** This finding is effective December 1, 2010.

**FOR FURTHER INFORMATION CONTACT:** Melanie Zeman, Air Programs Branch, Environmental Protection Agency—Region 2, 290 Broadway, 25th Floor, New York, New York 10007-1866, (212) 637-4022, [zeman.melanie@epa.gov](mailto:zeman.melanie@epa.gov).

The finding and the response to comments will be available at EPA's conformity Web site: <http://www.epa.gov/otaq/stateresources/transconf/adequacy.htm>.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

On October 27, 2009, the State of New York submitted an attainment demonstration state implementation plan to EPA for the New York portion of the New York-Northern New Jersey-Long Island, NY-NJ-CT PM<sub>2.5</sub> nonattainment area. The purpose of New York State's submittal was to demonstrate the State's progress toward

attaining the 1997 PM<sub>2.5</sub> National Ambient Air Quality Standard (62 FR 38652, July 18, 1997). New York State's submittal included motor vehicle emissions budgets ("budgets") for 2009 for use by the State's metropolitan planning organizations in making transportation conformity determinations. On January 19, 2010, EPA posted the availability of the budgets on our Web site for the purpose of soliciting public comments. The comment period closed on February 18, 2010, and we received no comments.

Today's notice is simply an announcement of a finding that we have already made. EPA Region 2 sent a letter to New York State on October 15, 2010, stating that the 2009 motor vehicle emissions budgets in New York's SIP for the New York portion of the New York-Northern New Jersey-Long Island, NY-NJ-CT PM<sub>2.5</sub> nonattainment area are adequate because they are consistent with the required attainment demonstration.

Transportation conformity is required by section 176(c) of the Clean Air Act. EPA's conformity rule requires that transportation plans, programs, and projects conform to SIPs and establishes the criteria and procedures for determining whether or not they conform. Conformity to a SIP means that transportation activities will not produce new air quality violations, worsen existing violations, or delay timely attainment of the National Ambient Air Quality Standards.

The criteria by which we determine whether a SIP's motor vehicle emission budgets are adequate for conformity purposes are outlined in 40 CFR 93.118(e)(4). Please note that an adequacy review is separate from EPA's completeness review, and it also should not be used to prejudice EPA's ultimate approval of the SIP. Even if we find a budget adequate, the SIP could later be disapproved.

We have described our process for determining the adequacy of submitted SIP budgets in 40 CFR 93.118(f). We have followed this rule in making our adequacy determination. The motor vehicle emissions budgets being found adequate today are listed in Table 1. EPA's finding will also be announced on EPA's conformity Web site: <http://www.epa.gov/otaq/stateresources/transconf/adequacy.htm>.

TABLE 1—2009 ATTAINMENT PM<sub>2.5</sub> MOTOR VEHICLE EMISSIONS BUDGETS FOR NEW YORK

[Tons per year]

Metropolitan Planning Organization	PM <sub>2.5</sub>	NO <sub>x</sub>
NYMTC (excluding Putnam County) and OCTC	1,750	77,571

#### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Particulate matter, Reporting and record keeping requirements.

**Authority:** 42 U.S.C. 7401-7671q.

Dated: October 29, 2010.

**Judith A. Enck,**

*Regional Administrator, Region 2.*

[FR Doc. 2010-28658 Filed 11-15-10; 8:45 am]

**BILLING CODE 6560-50-P**

#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 52

[EPA-R06-OAR-2005-TX-0012; FRL-9226-2]

#### Approval and Promulgation of Implementation Plans; Texas; Emissions Banking and Trading of Allowances Program

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking a direct final action to approve portions of four revisions to the Texas State Implementation Plan (SIP) that create and amend the Emissions Banking and Trading of Allowances (EBTA) Program. The EBTA Program establishes a cap and trade program to reduce emissions of oxides of nitrogen (NO<sub>x</sub>) and sulfur dioxide (SO<sub>2</sub>) from participating electric generating facilities. The Texas Commission on Environmental Quality (TCEQ) originally submitted the EBTA program to EPA as a SIP revision on January 3, 2000. Since that time, the TCEQ has submitted SIP revisions for the EBTA Program on September 11, 2000; July 15, 2002; and October 24, 2006. EPA has determined that these changes to the Texas SIP comply with the Federal Clean Air Act (the Act or CAA) and EPA regulations, are consistent with EPA policies, and will improve air quality. This action is being taken under section 110 and parts C and D of the Act.

**DATES:** This direct final rule is effective on January 18, 2011 without further notice, unless EPA receives relevant adverse comment by December 16, 2010. If EPA receives such comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R06-OAR-2005-TX-0012, by one of the following methods:

- *www.regulations.gov:* Follow the on-line instructions for submitting comments.
  - *E-mail:* Mr. Jeff Robinson at [robinson.jeffrey@epa.gov](mailto:robinson.jeffrey@epa.gov). Please also cc the person listed in the **FOR FURTHER INFORMATION CONTACT** paragraph below.
  - U.S. EPA Region 6 "Contact Us" Web site: <http://epa.gov/region6/r6coment.htm>. Please click on "6PD" (Multimedia) and select "Air" before submitting comments.
  - *Fax:* Mr. Jeff Robinson, Chief, Air Permits Section (6PD-R), at fax number 214-665-6762.
  - *Mail:* Mr. Jeff Robinson, Chief, Air Permits Section (6PD-R), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202-2733.
  - *Hand or Courier Delivery:* Mr. Jeff Robinson, Chief, Air Permits Section (6PD-R), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202-2733. Such deliveries are accepted only between the hours of 8:30 a.m. and 4:30 p.m. weekdays except for legal holidays. Special arrangements should be made for deliveries of boxed information.
- Instructions:* Direct your comments to Docket ID No. EPA-R06-OAR-2005-TX-0012. 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 the disclosure of which is restricted by statute. Do not submit information through <http://www.regulations.gov> or e-mail, if you believe that it is CBI or otherwise protected from disclosure. The <http://www.regulations.gov> website is an "anonymous access" system, which means that 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