

■ 3. In § 52.1320, the table in paragraph (e) is amended by adding the following entry to read as follows:

§ 52.1320 Identification of plan.

* * * * *
(e) * * *

| Name of non-regulatory SIP revision | Applicable geographic or nonattainment area | State submittal date | EPA approval date | Explanation |
|--|---|------------------------|--|--|
| (55) VOC RACT Requirements for the 8-hour ozone NAAQS. | St. Louis | 01/17/2007, 06/01/2011 | 01/23/2012 [Insert citation of publication]. | We are conditionally approving this SIP revision based on Missouri's commitment to submit a SIP to address the solvent cleaning CTG no later than December 31, 2012. |

■ 4. Section 52.1323 is amended by adding paragraph (o) to read as follows:

§ 52.1323 Approval status.

* * * * *

(o) The Administrator conditionally approves the Missouri SIP revisions that address the requirements of RACT under the 8-hour ozone NAAQS under § 52.1320(c). Full approval is contingent on Missouri submitting RACT rules for inclusion into the Missouri SIP to address the Solvent Cleanup Operations CTG, to the EPA, no later than December 31, 2012.

[FR Doc. 2012-1086 Filed 1-20-12; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R03-OAR-2011-0714; FRL-9620-3]

Approval and Promulgation of Air Quality Implementation Plans; Delaware, New Jersey, and Pennsylvania; Determinations of Attainment of the 1997 Annual Fine Particulate Standard for the Philadelphia-Wilmington Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to make two determinations regarding the Philadelphia-Wilmington fine particulate (PM_{2.5}) nonattainment area (the Philadelphia Area). First, EPA is making a determination that the Philadelphia Area has attained the 1997 annual PM_{2.5} national ambient air quality standard (NAAQS) by its attainment date of April 5, 2010. This determination is based upon quality assured and certified ambient air monitoring data that show the area has monitored attainment of the 1997 annual PM_{2.5} NAAQS for the 2007-2009

monitoring period. Second, EPA is making a clean data determination, finding that the Philadelphia Area has attained the 1997 PM_{2.5} NAAQS, based on quality assured and certified ambient air monitoring data for the 2007-2009 and 2008-2010 monitoring periods. In accordance with EPA's applicable PM_{2.5} implementation rule, this determination suspends the requirement for the Philadelphia Area to submit an attainment demonstration, reasonably available control measures (RACM), a reasonable further progress (RFP) plan, and contingency measures related to attainment of the 1997 annual PM_{2.5} NAAQS for so long as the area continues to attain the 1997 annual PM_{2.5} NAAQS. Although these requirements are suspended, EPA is not precluded from acting upon these elements at any time if submitted to EPA for review and approval. These actions are being taken under the Clean Air Act (CAA).

DATES: This rule is effective on March 23, 2012 without further notice, unless EPA receives adverse written comment by February 22, 2012. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA-R03-OAR-2011-0714 by one of the following methods:

A. *www.regulations.gov*. Follow the on-line instructions for submitting comments.

B. *Email:* fernandez.cristina@epa.gov.

C. *Mail:* EPA-R03-OAR-2011-0714, Cristina Fernandez, Associate Director, Office of Air Program Planning, Mailcode 3AP30, 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-2011-0714. 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 email. 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 email comment directly to EPA without going through *www.regulations.gov*, your email 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: If you have questions concerning EPA's action related to Delaware or Pennsylvania, please contact Maria A. Pino, (215) 814-2181, or by email at pino.maria@epa.gov. If you have questions concerning EPA's action related to New Jersey, please contact Henry Feingersh, (212) 637-3382, or by email at feingersh.henry@epa.gov.

SUPPLEMENTARY INFORMATION: For detailed information regarding these actions, EPA prepared a Technical Support Document (TSD). The TSD can be viewed at <http://www.regulations.gov>. The following outline is provided to aid in locating information in this action.

- I. What are the actions that EPA is taking?
- II. What is the background for these actions?
- III. What are the effects of these actions?
- IV. What is EPA's analysis of the relevant air quality data?
- V. Final Actions
- VI. Statutory and Executive Order Reviews

I. What are the actions that EPA is taking?

Pursuant to section 179(c) of the CAA, EPA is making a determination that the Philadelphia Area attained the 1997 PM_{2.5} NAAQS by its attainment date, April 5, 2010. This determination is based upon quality assured and certified ambient air monitoring data for the 2007–2009 monitoring period that shows the area has monitored attainment of the 1997 PM_{2.5} NAAQS during this monitoring period.

EPA is also making a clean data determination, finding that the Philadelphia Area has attained the 1997 PM_{2.5} NAAQS. This determination is based upon quality assured and certified ambient air monitoring data that show the area has monitored attainment of the 1997 PM_{2.5} NAAQS for the 2007–2009 and 2008–2010 monitoring periods. After the effective date of this determination, the requirement for the Philadelphia Area to submit an attainment demonstration, RACM, an RFP plan, and contingency measures related to attainment of the 1997 PM_{2.5} NAAQS shall be suspended for so long as the area continues to attain the 1997 PM_{2.5} NAAQS. Although these requirements are suspended, EPA is not precluded from acting upon these elements at any time if submitted to EPA for review and approval. The States

of Delaware and New Jersey, and the Commonwealth of Pennsylvania have submitted SIP revisions for their portions of the Philadelphia Area to EPA for review and approval.

II. What is the background for these actions?

A. The Philadelphia Area

On July 18, 1997, 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 (“the annual PM_{2.5} NAAQS” or “the annual standard”) (62 FR 36852). 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, EPA published its air quality designations for the 1997 PM_{2.5} NAAQS based upon air quality monitoring data for calendar years 2001–2003 (70 FR 944). These designations became effective on April 5, 2005. The Philadelphia Area, which includes the New Castle County in Delaware; Burlington, Camden, and Gloucester Counties in New Jersey; and Bucks, Chester, Delaware, Montgomery, and Philadelphia Counties in Pennsylvania was designated nonattainment for the 1997 annual PM_{2.5} NAAQS during this designations process. See, 40 CFR 81.308, 81.832, and 81.339. The attainment date for the 1997 annual PM_{2.5} NAAQS is as expeditiously as practicable, but no more than five years from the date of designation. See, 40 CFR 51.1004(a). Therefore, the attainment date for the Philadelphia Area is April 5, 2010.

On October 17, 2006 (71 FR 61144), EPA retained the 1997 annual PM_{2.5} NAAQS at 15 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 published the area designations for the 2006 24-hour standard (74 FR 58688). That action, effective on December 14, 2009, designated the same Philadelphia Area as nonattainment for the 2006 24-hour standard and clarified that the Philadelphia Area is designated as unclassifiable/attainment for the 1997 24-hour PM_{2.5} standard. This rulemaking only addresses the 1997 annual PM_{2.5} standard and does not address the 1997 or the 2006 24-hour PM_{2.5} standards.

In response to legal challenges of the 2006 annual standard, the U.S. Court of Appeals for the District of Columbia

Circuit (D.C. 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 (D.C. Circuit 2009). However, given that the 1997 and 2006 annual PM_{2.5} standards are essentially identical, attainment of the 1997 annual standard would also indicate attainment of the remanded 2006 annual standard.

B. Requirement To Determine Attainment by the Attainment Date

Under CAA section 179(c), not later than six months after an areas attainment date, EPA is required to make a determination that a nonattainment area has attained by its attainment date. EPA is required to publish that determination in the **Federal Register**.

C. Clean Data Determination

Under the provisions of EPA's PM_{2.5} implementation rule at 40 CFR 51.1004(c), if EPA issues a determination that an area is attaining the relevant standard (through a rulemaking that includes public notice and comment), then the area's obligations to submit an attainment demonstration, RACM, RFP plan, contingency measures, and any other planning SIPs related to attainment are suspended for as long as the area continues to attain. The clean data determination is not equivalent to a redesignation. The state must still meet the statutory requirements for redesignation in order for the area to be redesignated to attainment.

D. Ambient Air Quality Monitoring Data

The States of Delaware, and New Jersey, and the Commonwealth of Pennsylvania (“the States”) submitted quality assured air quality monitoring data into the EPA Air Quality System (AQS) database for the 2007–2009 and 2008–2010 monitoring periods. The States then certified that data. EPA's evaluation of this data shows that the Philadelphia Area has attained the 1997 annual PM_{2.5} NAAQS. Additional information on air quality data for the Philadelphia Area can be found in the TSD prepared for this action.

III. What are the effects of these actions?

These actions do not constitute a redesignation to attainment under section 107(d)(3) of the CAA. The designation status of the Philadelphia Area will remain nonattainment for the 1997 annual PM_{2.5} NAAQS until such time as EPA determines that the area meets the CAA requirements for

redesignation to attainment, including an approved maintenance plan.

A. Determination of Attainment by the Attainment Date

EPA is making a determination that the Philadelphia Area has attained the 1997 annual PM_{2.5} NAAQS by its applicable attainment date of April 5, 2010. Therefore, EPA has met its 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 standard by that date. The effect of a final determination of attainment by the area's attainment date will be to discharge EPA's obligation under CAA section 179(c).

B. Clean Data Determination

EPA is making a determination that the Philadelphia Area is attaining the 1997 annual PM_{2.5} NAAQS. This determination of attainment suspends the CAA requirements for the Philadelphia Area to submit an attainment demonstration and the associated RFP plan, contingency measures, RACM analysis, and any other planning SIPs related to attainment of the 1997 annual PM_{2.5} NAAQS. These requirements remain suspended for so long as the area continues to attain the 1997 annual PM_{2.5} NAAQS.

The clean data determination suspends the requirement to submit an attainment demonstration, RACM, RFP plan, contingency measures, and any other planning SIPs related to attainment of the 1997 annual PM_{2.5} NAAQS. This suspension remains in effect until such time, if any, that EPA (i) redesignates the area to attainment at which time those requirements no longer apply, or (ii) subsequently determines that the area has violated the 1997 annual PM_{2.5} NAAQS. This determination is separate from, and does not influence or otherwise affect, any future designation determination or requirements for the area based on any new or revised PM_{2.5} NAAQS. It remains in effect regardless of whether EPA designates this area as a nonattainment area for purposes of any new or revised PM_{2.5} NAAQS. Although these requirements are suspended, EPA is not precluded from acting upon these elements.

IV. What is EPA's analysis of the relevant air quality data?

The criteria for determining if an area is attaining the 1997 annual PM_{2.5} NAAQS are set out in 40 CFR 50.13 and appendix N. The annual PM_{2.5} NAAQS is met when the annual design value is less than or equal to 15.0 micrograms per cubic meter (µg/m³). Three years of valid annual means are required to produce a valid annual standard design value. A year meets data completeness requirements when at least 75 percent of the scheduled sampling days for each quarter have valid data. The use of less than complete data is subject to the approval of EPA, which may consider factors such as monitoring site closures/moves, monitoring diligence, and nearby concentrations in determining whether to use such data.

While most of the monitoring data submitted by the States was complete, several monitors in the Philadelphia Area had less than four quarters of complete data for one or more year in both the 2007–2009 and 2008–2010 monitoring periods. For these monitors, EPA applied the data substitution test set out in the April 1999 EPA guidance document "Guideline on Data Handling Conventions for the PM NAAQS." This "maximum quarter" test is used for monitors with missing data. Maximum recorded values are substituted for the missing data. The resulting design value is compared to the standard. The monitor passes if the design value with maximum values substituted meets the standard.

Considering 2007–2009 data, six monitors had less than complete data, and five of those monitors passed the maximum quarter test. Therefore, while the five monitors had less than complete data, EPA's evaluation shows that the monitors meet the NAAQS. Data handling for the sixth monitor is discussed below.

Considering 2008–2010 data, four monitors had less than complete data, and all four monitors passed the maximum quarter test. Therefore, while the four monitors had less than complete data, EPA's evaluation shows that the monitors meet the NAAQS. Details of EPA's analysis are set out in the TSD prepared for this action.

The maximum quarter test could not be used to show attainment, considering

2007–2009 data, for one monitor located in Chester County, Pennsylvania. For this monitor, EPA performed a statistical analysis of the data, in which a linear regression relationship is established between the site with incomplete data and a nearby site which has more complete data in the period in which the incomplete site is missing data. The linear regression relationship is based on time periods in which both monitors were operating. The linear regression equation developed from the relationship between the monitors is used to fill in missing data for the incomplete monitor, so that the normal data completeness requirement of 75 percent of data in each quarter of the three years is met. After the missing data for the site is filled in, the results are verified through an additional statistical test. The results of EPA's statistical analysis indicated that while the Chester County, Pennsylvania monitor had less than complete data, the data is sufficient to demonstrate that the NAAQS has been met. Details of this analysis are set out in the TSD prepared for this action.

Consistent with the requirements contained in 40 CFR part 50, EPA has reviewed the PM_{2.5} ambient air monitoring data for the monitoring periods 2007–2009 and 2008–2010 for the Philadelphia Area, as recorded in the AQS database. On the basis of that review, EPA has concluded that the Philadelphia Area attained the 1997 annual PM_{2.5} NAAQS based on data for the 2007–2009 and 2008–2010 monitoring periods.

A. Determination of Attainment by the Attainment Date

According to the PM_{2.5} implementation rule, the attainment date for the Philadelphia Area is April 5, 2010, and monitoring data from the period 2007–2009 is used to determine if the area attained by April 5, 2010. Table 1 shows the PM_{2.5} design values for each monitor in the Philadelphia Area for the years 2007–2009. All 2007–2009 design values are below 15.0 µg/m³ and EPA's evaluation shows that all monitors meet the NAAQS. Therefore, the Philadelphia Area attained the 1997 annual PM_{2.5} NAAQS by its attainment date.

TABLE 1—2007–2009 ANNUAL PM_{2.5} DESIGN VALUES, PHILADELPHIA AREA

| State | County | Monitor ID | Annual mean (µg/m ³) | | | 2007–2009 Design value (µg/m ³) |
|----------------|------------------|------------|----------------------------------|------|------|---|
| | | | 2007 | 2008 | 2009 | |
| Delaware | New Castle | 100031003 | 13.4 | 13.0 | 10.2 | 12.2 |
| | | 100031007 | 12.5 | 11.5 | 10.0 | 11.3 |

TABLE 1—2007–2009 ANNUAL PM_{2.5} DESIGN VALUES, PHILADELPHIA AREA—Continued

| State | County | Monitor ID | Annual mean (µg/m ³) | | | 2007–2009 Design value (µg/m ³) |
|--------------|--------------|------------|----------------------------------|------|------|---|
| | | | 2007 | 2008 | 2009 | |
| New Jersey | Camden | 100031012 | 13.4 | 12.5 | 10.6 | 12.2 |
| | | 100032004 | 14.4 | 13.5 | 11.2 | 13.0 |
| | | 340071007 | 13.8 | 11.9 | 9.5 | 11.7 |
| Pennsylvania | Gloucester | 340150004 | 13.3 | 11.5 | 9.3 | 11.4 |
| | | 420170012 | 13.0 | 12.7 | 10.8 | 12.2 |
| | Chester | 420290100 | 14.1 | 13.7 | 14.1 | 13.9 |
| | | 420450002 | 14.7 | 13.9 | 12.4 | 13.7 |
| | Montgomery | 420910013 | 13.1 | 11.7 | 10.4 | 11.7 |
| | Philadelphia | 421010004 | 13.7 | 13.0 | 10.8 | 12.5 |
| | | 421010024 | 12.9 | 12.0 | 9.9 | 11.6 |
| | | 421010047 | 14.3 | 13.5 | 11.1 | 13.0 |
| 421010055 | | * | 13.5 | 11.3 | 12.4 | |
| | | 421010057 | 12.0 | 13.3 | 11.1 | 12.1 |

*NOTE: Monitor 421010055 in Philadelphia County, Pennsylvania, started operating in 2008.

B. Clean Data Determination

Table 2 shows the PM_{2.5} design values for each monitor in the Philadelphia

Area for the years 2008–2010. All 2008–2010 design values are below 15.0 µg/m³ and EPA’s evaluation shows that all

monitors meet the NAAQS. Therefore, the Philadelphia Area attained the 1997 annual PM_{2.5} NAAQS.

TABLE 2—2008–2010 ANNUAL PM_{2.5} DESIGN VALUES, PHILADELPHIA AREA

| State | County | Monitor ID | Annual mean (µg/m ³) | | | 2008–2010 Design value (µg/m ³) |
|--------------|--------------|------------|----------------------------------|------|------|---|
| | | | 2008 | 2009 | 2010 | |
| Delaware | New Castle | 100031003 | 13.0 | 10.2 | 10.2 | 11.1 |
| | | 100031007 | 11.5 | 10.0 | 10.0 | 10.5 |
| | | 100031012 | 12.5 | 10.6 | 10.4 | 11.2 |
| | | 100032004 | 13.5 | 11.2 | 10.6 | 11.7 |
| New Jersey | Camden | 340071007 | 11.9 | 9.5 | 9.5 | 10.3 |
| | | 340150004 | 11.5 | 9.3 | 9.1 | 10.0 |
| Pennsylvania | Bucks | 420170012 | 12.7 | 10.8 | 10.5 | 11.3 |
| | | 420290100 | 13.7 | 14.1 | 13.8 | 13.8 |
| | Delaware | 420450002 | 13.9 | 12.4 | 13.5 | 13.3 |
| | Montgomery | 420910013 | 11.7 | 10.4 | 9.5 | 10.5 |
| | Philadelphia | 421010004 | 13.0 | 10.8 | 10.7 | 11.5 |
| | | 421010024 | 12.0 | 9.9 | 9.6 | 10.5 |
| | | 421010047 | 13.5 | 11.1 | 11.0 | 11.9 |
| | | 421010055 | 13.5 | 11.3 | 11.3 | 12.0 |
| | | 421010057 | 13.3 | 11.1 | 10.9 | 11.7 |

V. Final Actions

EPA is making two determinations regarding the Philadelphia Area. First, EPA is making a determination that the Philadelphia Area has attained the 1997 annual PM_{2.5} NAAQS. This clean data determination suspends the requirements for the Philadelphia Area to submit an attainment demonstration and associated RACM, RFP plan, contingency measures, and any other planning requirements related to attainment of the 1997 annual PM_{2.5} NAAQS, as provided in 40 CFR 51.1004(c), so long as the area continues to attain the 1997 annual PM_{2.5} NAAQS. Second, pursuant to section 179(c) of the CAA, EPA is making a determination that the Philadelphia Area has attained the 1997 annual PM_{2.5} NAAQS by its attainment date, April 5, 2010. These determinations are based

upon complete, quality assured, and certified ambient air monitoring data that show the area has monitored attainment of the 1997 annual PM_{2.5} NAAQS for the 2007–2009 and 2008–2010 monitoring periods.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comment. However, in the “Proposed Rules” section of today’s **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This rule will be effective on March 23, 2012 without further notice unless EPA receives adverse comment by February 22, 2012. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public

that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

VI. Statutory and Executive Order Reviews

This action makes determinations of attainment based on air quality, and result in the suspension of certain federal requirements. This action does not impose additional requirements beyond those imposed by state law. 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 determination that the Philadelphia Area has attained the 1997 annual PM_{2.5} NAAQS 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.

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 these actions 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).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by March 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 Philadelphia Area has attained the 1997 annual PM_{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 record-keeping requirements.

Dated: December 8, 2011.

W.C. Early,

Acting, Regional Administrator, Region III.

Dated: January 3, 2012.

Judith A. Enck,

Regional Administrator, Region II.

Part 52, chapter I, title 40 of the Code of Federal Regulations 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 I—Delaware

■ 2. Section 52.425 is added to read as follows:

§ 52.425 Determinations of Attainment.

Based upon EPA’s review of the air quality data for the 3-year period 2007 to 2009, EPA determined that the Philadelphia-Wilmington, PA–NJ–DE fine particle (PM_{2.5}) nonattainment area attained the 1997 annual PM_{2.5} National Ambient Air Quality Standard (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 standard. EPA also determined that the Philadelphia-Wilmington, PA–NJ–DE PM_{2.5} nonattainment area is not subject to the consequences of failing to attain pursuant to section 179(d).

■ 3. Section 52.427 is added to read as follows:

§ 52.427 Control strategy: Particulate matter.

Determination of Attainment. EPA has determined, as of January 23, 2012, that based on 2007 to 2009 and 2008 to 2010 ambient air quality data, the Philadelphia-Wilmington, PA–NJ–DE nonattainment area has attained the 1997 annual PM_{2.5} NAAQS. This determination, in accordance with 40 CFR 52.1004(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.

Subpart FF—New Jersey

■ 4. Section 52.1576 is added to read as follows:

§ 52.1576 Determinations of Attainment.

Based upon EPA’s review of the air quality data for the 3-year period 2007 to 2009, EPA determined that the Philadelphia-Wilmington, PA–NJ–DE fine particle (PM_{2.5}) nonattainment area attained the 1997 annual PM_{2.5} National Ambient Air Quality Standard (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 standard. EPA also determined that the Philadelphia-Wilmington, PA–NJ–DE PM_{2.5} nonattainment area is not subject to the consequences of failing to attain pursuant to section 179(d).

■ 5. Section 52.1602 is amended by adding new paragraph (d) to read as follows:

§ 52.1602 Control strategy and regulations: PM_{2.5}.

* * * * *

(d) Determination of Attainment. EPA has determined, as of January 23, 2012, that the Philadelphia-Wilmington, PA–NJ–DE fine particle (PM_{2.5}) nonattainment area has attained the 1997 PM_{2.5} National Ambient Air Quality Standard. 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 the area

continues to attain the 1997 PM_{2.5} NAAQS.

Subpart NN—Pennsylvania

■ 6. Section 52.2056 is amended by adding paragraph (f) to read as follows:

§ 52.2056 Determinations of Attainment.

* * * * *

(f) Based upon EPA's review of the air quality data for the 3-year period 2007 to 2009, EPA determined that the Philadelphia-Wilmington, PA-NJ-DE fine particle (PM_{2.5}) nonattainment area attained the 1997 annual PM_{2.5} National Ambient Air Quality Standard (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 standard. EPA also determined that the Philadelphia-Wilmington, PA-NJ-DE PM_{2.5} nonattainment area is not subject to the consequences of failing to attain pursuant to section 179(d).

■ 7. Section 52.2059 is amended by adding paragraph (e) to read as follows:

§ 52.2059 Control strategy: Particulate matter.

* * * * *

(e) *Determination of Attainment.* EPA has determined, as of January 23, 2012, that based on 2007 to 2009 and 2008 to 2010 ambient air quality data, the Philadelphia-Wilmington, PA-NJ-DE nonattainment area has attained the 1997 annual PM_{2.5} NAAQS. This determination, in accordance with 40 CFR 52.1004(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.

[FR Doc. 2012-1089 Filed 1-20-12; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 271 and 272

[EPA-R06-RCRA-2011-0407; FRL-9613-6]

New Mexico: Final Authorization of State-Initiated Changes and Incorporation-by-Reference of State Hazardous Waste Management Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: During a review of New Mexico's regulations, the EPA identified a variety of State-initiated changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). We have determined that these changes are minor and satisfy all requirements needed to qualify for Final authorization and are authorizing the State-initiated changes through this Direct Final action.

The Solid Waste Disposal Act, as amended, commonly referred to as the Resource Conservation and Recovery Act (RCRA), allows the Environmental Protection Agency (EPA) to authorize States to operate their hazardous waste management programs in lieu of the Federal program. The EPA uses the regulations entitled "Approved State Hazardous Waste Management Programs" to provide notice of the authorization status of State programs and to incorporate by reference those provisions of the State statutes and regulations that will be subject to the EPA's inspection and enforcement. The rule codifies in the regulations the prior approval of New Mexico's hazardous waste management program and incorporates by reference authorized provisions of the State's statutes and regulations.

DATES: This regulation is effective March 23, 2012, unless the EPA receives adverse written comment on this regulation by the close of business February 22, 2012. If the EPA receives such comments, it will publish a timely withdrawal of this immediate final rule in the **Federal Register** informing the public that this rule will not take effect. The Director of the **Federal Register** approves this incorporation by reference as of March 23, 2012 in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

ADDRESSES: Submit your comments by one of the following methods:

1. *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

2. *Email:* patterson.alima@epa.gov.

3. *Mail:* Alima Patterson, Region 6, Regional Authorization Coordinator, State/Tribal Oversight Section (6PD-O), or Julia Banks, Codification Coordinator, Multimedia Planning and Permitting Division, EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733.

4. *Hand Delivery or Courier:* Deliver your comments to Alima Patterson, Region 6, Regional Authorization Coordinator, State/Tribal Oversight Section (6PD-O), Multimedia Planning and Permitting Division, EPA Region 6,

1445 Ross Avenue, Dallas, Texas 75202-2733.

Instructions: Direct your comments to Docket ID No. EPA-R06-RCRA-2011-0407.

EPA's policy is that all comments received will be included in the public docket without change, including 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 email. The Federal <http://www.regulations.gov> Web site is an "anonymous access" system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through <http://www.regulations.gov>, your email 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, the 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 the EPA cannot read your comment due to technical difficulties, and cannot contact you for clarification, the 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. (For additional information about the EPA's public docket, visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.html>).

You can view and copy the documents that form the basis for this codification and associated publicly available materials from 8:30 a.m. to 4 p.m. Monday through Friday at the following location: EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733, phone number (214) 665-8533 or (214) 665-8178. Interested persons wanting to examine these documents should make an appointment with the office at least two weeks in advance.

FOR FURTHER INFORMATION CONTACT: Alima Patterson, Region 6 Regional Authorization Coordinator (214) 665-8533, or Julia Banks, Codification Coordinator, (214) 665-8178, State/Tribal Oversight Section (6PD-O), Multimedia Planning and Permitting Division, EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733, or