

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 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, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: January 12, 2012.

**A. Stanley Meiburg,**

*Acting Regional Administrator, Region 4.*

[FR Doc. 2012-1220 Filed 1-20-12; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R01-OAR-2011-0960; A-1-FRL-9621-2]

#### Approval and Promulgation of Air Quality Implementation Plans; Massachusetts; Determination of Attainment of the 1997 Ozone Standard for the Western Massachusetts Nonattainment Area

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

**ACTION:** Proposed rule.

**SUMMARY:** The EPA is proposing two separate and independent determinations regarding the Springfield (Western Massachusetts) moderate 1997 8-hour ozone nonattainment area. First, EPA is proposing to determine that the Western Massachusetts nonattainment area has

attained the 1997 8-hour National Ambient Air Quality Standard (NAAQS) for ozone, based upon complete, quality-assured, certified ambient air monitoring data that show the area has monitored attainment of the 1997 8-hour ozone NAAQS for the 2007–2009 and 2008–2010 monitoring periods. Preliminary data for 2011 indicate the area continues to attain the standard. If this proposed determination is made final, under the provisions of EPA's ozone implementation rule, the requirements for this area to submit an attainment demonstration, a reasonable further progress plan, contingency measures, and other planning State Implementation Plans related to attainment of the 1997 8-hour ozone NAAQS shall be suspended for so long as the area continues to attain the 1997 ozone NAAQS. Second, based on complete, quality-assured and certified air monitoring data for 2007–2009, EPA is proposing to determine that the Western Massachusetts nonattainment area also attained the 1997 ozone NAAQS as of June 15, 2010, its applicable attainment date.

**DATES:** Written comments must be received on or before February 22, 2012.

**ADDRESSES:** Submit your comments, identified by Docket ID Number EPA-R01-OAR-2011-0960 by one of the following methods:

1. *www.regulations.gov:* Follow the on-line instructions for submitting comments.
2. *Email:* [arnold.anne@epa.gov](mailto:arnold.anne@epa.gov).
3. *Fax:* (617) 918-0047.
4. *Mail:* "Docket Identification Number EPA-R01-OAR-2011-0960," Anne Arnold, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square, Suite 100 (mail code: OEP05-2), Boston, MA 02109-3912.
5. *Hand Delivery or Courier.* Deliver your comments to: Anne Arnold, Manager, Air Quality Planning Unit, Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square, Suite 100, Boston, MA 02109-3912. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding legal holidays.

**Instructions:** Direct your comments to Docket ID No. EPA-R01-OAR-2011-0960. 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](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 through [www.regulations.gov](http://www.regulations.gov), or email, information that you consider to be CBI or otherwise protected.

The [www.regulations.gov](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 email comment directly to EPA without going through [www.regulations.gov](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, 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](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 [www.regulations.gov](http://www.regulations.gov) or in hard copy at Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square, Suite 100, Boston, MA. EPA requests that if at all possible, you contact the person 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.

**FOR FURTHER INFORMATION CONTACT:** Richard P. Burkhart, Air Quality Planning Unit, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square, Suite 100, Boston, MA 02109-3912, telephone number (617) 918-1664, fax number (617) 918-0664, email [Burkhart.Richard@epa.gov](mailto:Burkhart.Richard@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 actions is EPA taking?
- II. What is the effect of these actions?
- III. What is the background for these actions?
- IV. What is EPA’s analysis of the relevant air quality data?
- V. Proposed Actions
- VI. Statutory and Executive Order Reviews

**I. What actions is EPA taking?**

EPA is proposing to determine that the Springfield (Western Massachusetts) moderate 8-hour ozone nonattainment area (hereafter “the Western Massachusetts area”) has attained the 1997 8-hour NAAQS for ozone. This determination is based upon complete, quality-assured and certified ambient air monitoring data that show the area has monitored attainment of the 1997 ozone NAAQS for the 2007–2009 and 2008–2010 monitoring periods. Preliminary data available for 2011 indicate the area continues to attain the standard. In addition, pursuant to section 181(b)(2)(A) of the Clean Air Act (CAA), and based upon complete, quality assured and certified air monitoring data for 2007–2009, EPA is proposing to determine that this area attained the 1997 ozone NAAQS by its applicable attainment date (June 15, 2010).

**II. What is the effect of these actions?**

If EPA’s determination that the area is attaining the standard is made final, under the provisions of EPA’s ozone implementation rule (see 40 CFR Section 51.918), the requirements for the Western Massachusetts moderate ozone nonattainment area to submit an attainment demonstration, a reasonable further progress plan, section 172(c)(9) contingency measures, and any other planning State Implementation Plans (SIPs) related to attainment of the 1997 8-hour ozone NAAQS would be suspended for so long as the area continues to attain the 1997 8-hour ozone NAAQS. This proposed action, if finalized, would not constitute a

redesignation to attainment under the Clean Air Act (CAA) section 107(d)(3), because we would not yet have an approved maintenance plan for the area as required under section 175A of the CAA, nor a determination that the area has met the other requirements for redesignation. The classification and designation status of the area would remain moderate nonattainment for the 1997 8-hour ozone NAAQS until such time as EPA determines that the area meets the CAA requirements for redesignation to attainment.

If this determination of attainment is finalized and EPA subsequently determines, after notice-and-comment rulemaking in the **Federal Register**, that the area has violated the 1997 8-hour ozone standard, the basis for the suspension of these requirements would no longer exist, and the area would thereafter have to address the pertinent CAA requirements. It should be noted, that Massachusetts submitted an attainment demonstration, reasonable further progress (RFP) plan and contingency measures for this area on January 31, 2008. EPA has not taken action on the attainment demonstration but has proposed approval of the RFP plan and contingency measures for the Western Massachusetts area. (See 75 FR 57221, September 20, 2010.)

In addition, under section 181(b)(2)(A) of the CAA and the provisions of EPA’s ozone implementation rule (see 40 CFR Section 51.902(a)), EPA is proposing to determine, that the Western Massachusetts area attained the 1997 ozone NAAQS by its applicable attainment date of June 15, 2010. The effect of a final determination of attainment by the area’s attainment date would be to discharge EPA’s obligation under section 181(b)(2)(A), and to establish that, in accordance with that section, the area would not be reclassified for failure to attain by its applicable attainment date.

**III. What is the background for these actions?**

On April 30, 2004 (69 FR 23857), EPA designated as nonattainment any area

that was violating the 1997 8-hour ozone NAAQS based on the three most recent years (2001–2003) of air quality data. The Western Massachusetts area was designated as a moderate ozone nonattainment area. The Western Massachusetts nonattainment area consists of Berkshire, Franklin, Hampden and Hampshire counties. Recent air quality data indicate that the Western Massachusetts area is attaining the 1997 8-hour ozone standard.

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

The EPA has reviewed the ambient air monitoring data for ozone, consistent with the requirements contained in 40 CFR Part 50 and recorded in the Air Quality Data System (AQS) database, for Western Massachusetts, from 2007 through 2010.

Under EPA regulations at 40 CFR part 50, the 1997 8-hour ozone standard is attained at a site when the 3-year average of the annual fourth-highest daily maximum 8-hour average ozone concentrations at an ozone monitor is less than or equal to 0.08 parts per million (ppm) (*i.e.*, 0.084 ppm, based on the rounding convention in 40 CFR Part 50, Appendix I). This 3-year average is referred to as the design value. When the design value is less than or equal to 0.084 ppm at each monitoring site within the area, then the area is meeting the NAAQS. Also, the data completeness requirement is met when the 3-year average of the percent of days with valid ambient monitoring data is more than 90%, and no single year has less than 75% data completeness as determined in Appendix I of 40 CFR Part 50.

Table 1 shows the fourth-highest daily maximum 8-hour average ozone concentrations for the four Western Massachusetts area monitors for the years 2007–2009, and the ozone design values for these same monitors based on 2007–2009. Table 2 shows similar data for the 2008–2010 monitoring period.

TABLE 1—2007–2009 FOURTH-HIGH 8-HOUR AVERAGE OZONE CONCENTRATIONS AND 2007–2009 DESIGN VALUES (PARTS PER MILLION) IN THE WESTERN MASSACHUSETTS AREA

Site ID	Site location	4th High 2007	4th High 2008	4th High 2009	Design value (2007–2009)
250034002 .....	Adams <sup>1</sup> .....	0.080	0.072	0.066	0.072
250130008 .....	Chicopee .....	0.098	0.078	0.076	0.084
250150103 .....	N. Amherst .....	0.080	0.073	0.070	0.074
250154002 .....	Ware .....	0.087	0.079	0.076	0.080

TABLE 2—2008–2010 FOURTH-HIGH 8-HOUR AVERAGE OZONE CONCENTRATIONS AND 2008–2010 DESIGN VALUES (PARTS PER MILLION) IN THE WESTERN MASSACHUSETTS AREA

Site ID	Site location	4th High 2008	4th High 2009	4th High 2010	Design value (2008–2010)
250034002 ...	Adams <sup>1</sup> .....	0.072	0.066	0.073	0.070
250130008 ...	Chicopee .....	0.078	0.076	0.074	0.076
250150103 ...	N. Amherst .....	0.073	0.070	0.069	0.070
250154002 ...	Ware .....	0.079	0.076	0.076	0.077

EPA's review of these data indicates that the Western Massachusetts area attained the 1997 8-hour ozone NAAQS and met its applicable attainment deadline, based on 2007–2009 data. Our review also shows that the area continues to attain the standard, based on complete, quality-assured and certified data for the 2008–2010 monitoring period. Preliminary ozone data for the 2011 ozone monitoring season also indicate attainment.

EPA is soliciting public comments on the issues discussed in this notice or on other relevant matters pertaining to this rulemaking action. These comments will be considered before EPA takes final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the EPA New England Regional Office listed in the **ADDRESSES** section of this **Federal Register**.

#### V. Proposed Actions

EPA is proposing two separate and independent determinations. First, EPA is proposing to determine that the Western Massachusetts 1997 8-hour ozone moderate nonattainment area has attained the 1997 8-hour ozone standard, based on complete, quality-assured data for the 2007–2009 and 2008–2010 monitoring periods. Preliminary data available for 2011 indicate the area continues to attain the standard. As provided in 40 CFR 51.918, if EPA finalizes this determination, it would suspend the requirements for Massachusetts to submit planning SIPs related to attainment of the 1997 8-hour

<sup>1</sup> The data capture percentage for this ozone monitor was below EPA data capture requirements for the 1997 8-hour ozone NAAQS, for both the 2007–2009 and 2008–2010 monitoring periods. The Massachusetts Department of Environmental Protection performed a missing data analysis for this site in accordance with the regulatory requirements of 40 CFR part 50, Appendix I. The Massachusetts missing data analysis used a combination of meteorology and air quality data for ozone monitors near the Adams site for the missing days to decisively conclude that on the days with missing ozone data, the ozone levels, if captured, would have been below the 1997 8-hour ozone NAAQS. Thus, by rule, these days can be counted for the purpose of meeting the data completeness requirement. The missing data analysis for this site was approved by EPA on December 15, 2011. The approval letter is in the Docket for this action.

ozone NAAQS for this area, for so long as the area continues to attain the standard.<sup>2</sup> In addition, under section 181(b)(2)(A) of the Clean Air Act and the provisions of EPA's ozone implementation rule (see 40 CFR Section 51.902(a)), based upon complete, quality-assured and certified data for 2007–2009, EPA is proposing to determine that this area has attained the 1997 ozone NAAQS by its applicable attainment date of June 15, 2010.

#### VI. Statutory and Executive Order Reviews

These actions propose to make determinations of attainment based on air quality, and would, if finalized, result in the suspension of certain Federal requirements, and would not impose additional requirements beyond those imposed by state law. For that reason, these proposed actions:

- Are not a "significant regulatory actions" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Do not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Are 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.*);
- Do 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);
- Do not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Are not economically significant regulatory actions based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

<sup>2</sup> Massachusetts submitted an attainment demonstration and contingency measures for this area on Jan. 31, 2008. EPA has not taken action on the attainment demonstration, but has proposed approval of the reasonable further progress plan and contingency measures. (See 75 FR 57221, Sept. 10, 2010.)

- Are not significant regulatory actions subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

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

- Do 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.

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

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: January 9, 2012.

#### H. Curtis Spalding,

*Regional Administrator, EPA New England.*

[FR Doc. 2012–1223 Filed 1–20–12; 8:45 am]

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