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Part VII

## Environmental Protection Agency

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40 CFR Parts 52 and 81

Approval and Promulgation of Air Quality Implementation Plans; Final Rules

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Parts 52 and 81**

[EPA-R03-OAR-2014-0387; FRL-9920-41-Region 3]

**Approval and Promulgation of Air Quality Implementation Plans; Maryland; Redesignation Request and Associated Maintenance Plan for the Baltimore, Maryland Nonattainment Area for the 1997 Annual Fine Particulate Matter Standard****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving the State of Maryland's request to redesignate to attainment the Baltimore, Maryland Nonattainment Area (Baltimore Area or Area) for the 1997 annual fine particulate matter (PM<sub>2.5</sub>) national ambient air quality standard (NAAQS). EPA has determined that the Baltimore Area attained the standard and that it continues to attain the standard. In addition, EPA is approving, as a revision to the Maryland State Implementation Plan (SIP), the Baltimore Area maintenance plan to show maintenance of the 1997 annual PM<sub>2.5</sub> NAAQS through 2025 for the Area. The maintenance plan includes the 2017 and 2025 PM<sub>2.5</sub> and nitrogen oxides (NO<sub>x</sub>) mobile vehicle emissions budgets (MVEBs) for the Baltimore Area for the 1997 annual PM<sub>2.5</sub> NAAQS, which EPA is approving for transportation conformity purposes. These actions are being taken under the Clean Air Act (CAA).

**DATES:** This final rule is effective on December 16, 2014.

**ADDRESSES:** EPA has established a docket for this action under Docket ID Number EPA-R03-OAR-2014-0387. All documents in the docket are listed in the [www.regulations.gov](http://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](http://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.

Copies of the State submittal are available at the Maryland Department of the Environment, Air and Radiation Management Administration, 1800 Washington Boulevard, Baltimore, Maryland 21230.

**FOR FURTHER INFORMATION CONTACT:** Marilyn Powers at (215) 814-2308, or by email at [powers.marilyn@epa.gov](mailto:powers.marilyn@epa.gov).

**SUPPLEMENTARY INFORMATION:****I. Background**

On December 12, 2013, the State of Maryland, through the Maryland Department of the Environment (MDE), formally submitted a request to redesignate the Baltimore Area from nonattainment to attainment for the 1997 annual PM<sub>2.5</sub> NAAQS. Concurrently, MDE submitted a maintenance plan for the Baltimore Area as a SIP revision to ensure continued attainment throughout the Area over the next 10 years. In addition, the maintenance plan includes the 2017 and 2025 PM<sub>2.5</sub> and NO<sub>x</sub> MVEBs used for transportation conformity purposes for the Baltimore Area for the 1997 annual PM<sub>2.5</sub> NAAQS.

On October 3, 2014 (79 FR 59703), EPA published a notice of proposed rulemaking (NPR) for the State of Maryland. In the NPR, EPA proposed approval of Maryland's redesignation request for the Baltimore Area for the 1997 annual PM<sub>2.5</sub> NAAQS. EPA also proposed approval of the associated maintenance plan as a SIP revision for the 1997 annual PM<sub>2.5</sub> NAAQS, which includes the 2017 and 2025 for PM<sub>2.5</sub> and NO<sub>x</sub> MVEBs for the 1997 annual PM<sub>2.5</sub> NAAQS for purposes of transportation conformity.

In the October 3, 2014 NPR, EPA explains that the redesignation of the Baltimore Area does not rely on either the Clean Air Interstate Rule (CAIR) or the Cross State Air Pollution Rule (CSAPR) for maintenance. However, EPA notes here the changed status of CSAPR since the publication of the NPR on October 3, 2014. As discussed in the NPR, on April 29, 2014, the Supreme Court vacated and reversed the D.C. Circuit Court's decision regarding CSAPR and remanded that decision to the D.C. Circuit Court to resolve remaining issues in accordance with its ruling. *EPA v. EME Homer City Generation, L.P.*, 134 S. Ct. 1584 (2014). In light of the April 29, 2014 Supreme Court decision, on June 26, 2014, EPA moved to have the D.C. Circuit Court's December 30, 2011 stay of CSAPR lifted. *EME Homer City Generation, L.P. v. EPA*, Case No. 11-1302, Document No. 1499505 (D.C. Cir. filed June 26, 2014). On October 23, 2014, the D.C. Circuit

Court granted EPA's motion and lifted the stay of CSAPR which was imposed on December 30, 2011. *EME Homer City Generation, L.P. v. EPA*, No. 11-1302 (D.C. Cir. Oct. 23, 2014), Order at 3.

The details of Maryland's submittal and the rationale for EPA's proposed actions are explained in the NPR and will not be restated here. No public comments were received on the NPR.

**II. Final Action**

EPA is taking final actions on the redesignation request and SIP revision submitted by the State of Maryland on December 12, 2013, for the Baltimore Area for the 1997 annual PM<sub>2.5</sub> NAAQS. First, EPA is approving Maryland's redesignation request for the 1997 annual PM<sub>2.5</sub> NAAQS, because EPA has determined that the request meets the redesignation criteria set forth in section 107(d)(3)(E) of the CAA for this standard. Second, EPA is finding that the Baltimore Area is attaining and will continue to attain the 1997 annual PM<sub>2.5</sub> NAAQS. Third, EPA is approving the associated maintenance plan for the Baltimore Area as a revision to the Maryland SIP for the 1997 annual PM<sub>2.5</sub> NAAQS because it meets the requirements of section 175A of the CAA. EPA is also approving the 2017 and 2025 PM<sub>2.5</sub> and NO<sub>x</sub> MVEBs submitted by Maryland for Baltimore Area for transportation conformity purposes. Approval of this redesignation request will change the official designation of the Baltimore Area from nonattainment to attainment for the 1997 annual PM<sub>2.5</sub> NAAQS.

In accordance with 5 U.S.C. 553(d), EPA finds there is good cause for this action to become effective immediately upon publication. A delayed effective date is unnecessary due to the nature of a redesignation to attainment, which eliminates CAA obligations that would otherwise apply. The immediate effective date for this action is authorized under both 5 U.S.C. 553(d)(1), which provides that rulemaking actions may become effective less than 30 days after publication if the rule "grants or recognizes an exemption or relieves a restriction," and section 553(d)(3), which allows an effective date less than 30 days after publication "as otherwise provided by the agency for good cause found and published with the rule." The purpose of the 30-day waiting period prescribed in section 553(d) is to give affected parties a reasonable time to adjust their behavior and prepare before the final rule takes effect. Today's rule, however, does not create any new regulatory requirements such that affected parties would need time to

prepare before the rule takes effect. Rather, today's rule relieves the State of Maryland of the obligation to comply with nonattainment-related planning requirements for the Area pursuant to Part D of the CAA and approves certain emissions inventories and MVEBs for the Area. For these reasons, EPA finds good cause under 5 U.S.C. 553(d) for this action to become effective on the date of publication of this notice.

### III. Statutory and Executive Order Reviews

#### A. General Requirements

Under the CAA, redesignation of an area to attainment and the accompanying approval of the maintenance plan under CAA section 107(d)(3)(E) are actions that affect the status of a geographical area and do not impose any additional regulatory requirements on sources beyond those required by state law. A redesignation to attainment does not in and of itself impose any new requirements, but rather results in the application of requirements contained in the CAA for areas that have been redesignated to attainment. Moreover, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and 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 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 February 17, 2015. 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 action, approving the redesignation request and maintenance plan for the Baltimore Area for the 1997 annual PM<sub>2.5</sub> NAAQS may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

#### List of Subjects

##### 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen oxides, Particulate matter, Reporting and recordkeeping requirements, Sulfur dioxide, Volatile organic compounds.

##### 40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

Dated: December 3, 2014.

**William C. Early,**

*Acting, Regional Administrator, Region III.*

40 CFR parts 52 and 81 are amended as follows:

#### PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

#### Subpart V—Maryland

- 2. In § 52.1070, the table in paragraph (e) is amended by adding an entry for the 1997 Annual PM<sub>2.5</sub> Maintenance Plan for the Baltimore Area at the end of the table to read as follows:

##### § 52.1070 Identification of plan.

*	*	*	*	*
(e)	*	*	*	

Name of non-regulatory SIP revision	Applicable geographic area	State submittal date	EPA approval date	Additional explanation
1997 Annual fine particulate (PM <sub>2.5</sub> ) Maintenance Plan for the Baltimore, MD Area.	Baltimore, MD 1997 annual PM <sub>2.5</sub> nonattainment area.	12/12/13	12/16/14 [Insert <b>Federal Register Citation</b> ].	See § 52.2526(k) and § 52.2531(h).

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

**§ 52.1081 Control strategy: Particulate matter.**

\* \* \* \* \*

(e) *Maintenance Plan and Transportation Conformity Budgets.* EPA approves the maintenance plan for the Baltimore, MD nonattainment area for the 1997 annual PM<sub>2.5</sub> NAAQS submitted by the State of Maryland on December 12, 2013. The maintenance

plan includes motor vehicle emission budgets (MVEBs) to be applied to all future transportation conformity determinations and analyses for the Baltimore, MD Area for the 1997 PM<sub>2.5</sub> NAAQS.

**BALTIMORE, MD AREA'S MOTOR VEHICLE EMISSIONS BUDGETS FOR THE 1997 ANNUAL PM<sub>2.5</sub> NAAQS, (TPY)**

Type of control strategy SIP	Year	NO <sub>x</sub>	PM <sub>2.5</sub>	Effective date of SIP approval
Maintenance Plan .....	2017 2025	29,892.01 21,594.96	1,218.60 1,051.39	12/16/14

**PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES**

■ 4. The authority citation for part 81 continues to read as follows:

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

■ 5. Section 81.321 the table entitled “Maryland–1997 Annual PM<sub>2.5</sub> NAAQS, [Primary and secondary]” is amended

by revising the entry for the Baltimore, MD Area to read as follows:

**§ 81.321 Maryland.**

\* \* \* \* \*

**MARYLAND–1997 ANNUAL PM<sub>2.5</sub> NAAQS**  
[Primary and secondary]

Designated area	Designation <sup>a</sup>		Classification	
	Date <sup>1</sup>	Type	Date <sup>2</sup>	Type
Baltimore, MD:				
Anne Arundel County .....	12/16/14	Attainment	.....	.....
Baltimore County .....	12/16/14	Attainment	.....	.....
Carroll County .....	12/16/14	Attainment	.....	.....
Harford County .....	12/16/14	Attainment	.....	.....
Howard County .....	12/16/14	Attainment	.....	.....
City of Baltimore .....	12/16/14	Attainment	.....	.....
* * * * *				

<sup>a</sup> Includes Indian Country located in each county or area, except as otherwise specified.

<sup>1</sup> This date is 90 days after January 5, 2005, unless otherwise noted.

<sup>2</sup> This date is July 2, 2014, unless otherwise noted.

\* \* \* \* \*