

directive from the DC Circuit in *EME Homer* ensures that the reductions associated with CAIR will be sufficiently permanent and enforceable for the necessary time period. EPA has been ordered by the court to develop a new rule and the opinion makes clear that after promulgating that new rule, EPA must provide states an opportunity to draft and submit SIPs to implement that rule. Thus, CAIR cannot be replaced until EPA has promulgated a final rule through a notice-and-comment rulemaking process, states have had an opportunity to draft and submit regional haze SIPs, EPA has reviewed the SIPs to determine if they can be approved, and EPA has taken action on the SIPs, including promulgating a federal implementation plan if appropriate. These steps alone will take many years, even with EPA and the states acting expeditiously. The court's clear instruction to EPA that it must continue to administer CAIR until a "valid replacement" exists provides an additional backstop; by definition, any rule that replaces CAIR and meets the court's direction would require upwind states to eliminate significant downwind contributions.

Further, in vacating the Transport Rule and requiring EPA to continue administering CAIR, the DC Circuit emphasized that the consequences of vacating CAIR "might be more severe now in light of the reliance interests accumulated over the intervening four years." *EME Homer*, slip op. at 60. The accumulated reliance interests include the interests of states who reasonably assumed they could rely on reductions associated with CAIR to meet certain regional haze requirements. For these reasons also, EPA believes it is appropriate to allow Florida to rely on reductions associated with CAIR in other states as sufficiently permanent and enforceable pending a valid replacement rule for purposes such as evaluating RPGs in the regional haze program. Following promulgation of the replacement rule, EPA will review regional haze SIPs as appropriate to identify whether there are any issues that need to be addressed.

Finally, unlike the enforceable emissions limitations and other enforceable measures in the LTS, RPGs are not directly enforceable. See 64 FR 35733, 40 CFR 51.308(d)(1)(v). The data provided by Florida indicate that EPA can reasonably expect the projected SO<sub>2</sub> emissions reductions in 2018 to be sufficient to meet the projected RPGs. As noted in the May 25, 2012, proposal, EPA believes that the five-year progress report is the appropriate time to address any changes, if necessary, to the RPG

demonstration and/or the LTS. EPA expects that this demonstration will address the impacts on the RPGs of any needed adjustments to the projected 2018 emissions due to updated information on the emissions for EGUs and other sources and source categories. If this assessment determines that an adjustment to the regional haze plan is necessary, EPA regulations require a SIP revision within a year of the five-year progress report. See 40 CFR 51.308(h)(4).

#### IV. What action is EPA taking?

EPA is proposing a full approval of the BART and reasonable progress determinations identified in Tables 1 and 2, above. In addition, EPA proposes to find that Florida's September 17, 2012, regional haze SIP amendment corrects the deficiencies that led to the proposed May 25, 2012, limited approval and proposed December 30, 2011, limited disapproval of the State's entire regional haze SIP and that Florida's regional haze SIP now meets all of the applicable regional haze requirements as set forth in sections 169A and 169B of the CAA and in 40 CFR 51.300–308. EPA is therefore withdrawing the previously proposed limited disapproval of Florida's entire regional haze SIP and is now proposing full approval.

#### V. Statutory and Executive Order Reviews

Under the CAA, 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 proposed 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 proposed 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 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, Nitrogen oxides, Particulate matter, Reporting and recordkeeping requirements, Sulfur dioxide, Volatile organic compounds.

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

Dated: November 30, 2012.

**A. Stanley Meiburg,**

*Acting Regional Administrator, Region 4.*

[FR Doc. 2012–29764 Filed 12–7–12; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA–R03–OAR–2010–0143; FRL–9759–5]

### Approval and Promulgation of Air Quality Implementation Plans; Maryland; the 2002 Base Year Inventory for the Baltimore, MD Nonattainment Area for the 1997 Fine Particulate Matter National Ambient Air Quality Standard

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA proposes to approve the fine particulate matter (PM<sub>2.5</sub>) 2002 base year emissions inventory portion of the State of Maryland State Implementation Plan (SIP) revision submitted by the State of Maryland, through the Maryland Department of the Environment (MDE), on June 6, 2008 for Baltimore, Maryland. In the Final Rules section of this **Federal Register**, EPA is approving the State's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A more detailed description of the State submittal and EPA's evaluation is included in a Technical Support Document (TSD) prepared in support of this rulemaking action. A copy of the TSD is available, upon request, from the EPA Regional Office listed in the **ADDRESSES** section of this document. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time.

**DATES:** Comments must be received in writing by January 9, 2013.

**ADDRESSES:** Submit your comments, identified by Docket ID Number EPA-R03-OAR-2010-0143 by one of the following methods:

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

B. *Email: mastro.donna@epa.gov*.

C. *Mail: EPA-R03-OAR-2010-0143*, Donna Mastro, 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-2010-0143. 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. Copies of the State submittal are available at the Maryland Department of the Environment, 1800 Washington Boulevard, Suite 705, Baltimore, Maryland 21230.

**FOR FURTHER INFORMATION CONTACT:** Asrah Khadr, (215) 814-2071, or by email at *khadr.asrah@epa.gov*.

**SUPPLEMENTARY INFORMATION:** For further information, please see the information provided in the direct final action, with the same title, that is located in the "Rules and Regulations" section of this **Federal Register** publication.

Dated: November 21, 2012.

**W.C. Early,**

*Acting Regional Administrator, Region III.*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R03-OAR-2012-0409; FRL-9759-8]

#### Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Determinations of Attainment of the 1997 8-Hour Ozone Standard for the Pittsburgh-Beaver Valley Moderate Nonattainment Area

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to make two separate and independent determinations regarding the Pittsburgh-Beaver Valley 1997 8-hour ozone nonattainment area (the Pittsburgh Area). First, EPA is proposing to determine that the Pittsburgh Area attained the 1997 8-hour ozone national ambient air quality standard (NAAQS) by the applicable attainment date of June 15, 2010. This proposal is based upon complete, quality assured, and certified ambient air monitoring data for the 2007-2009 monitoring period showing monitored attainment of the 1997 8-hour ozone NAAQS. Second, EPA is proposing to determine that the Pittsburgh Area is attaining the 1997 8-hour ozone NAAQS, based on complete, quality assured, and certified ambient air monitoring data for the 2009-2011 monitoring period, and available preliminary data for 2012. If finalized, this determination would suspend the requirement for the Pittsburgh 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 8-hour ozone NAAQS for so long as the area continues to attain that NAAQS. These determinations do not constitute a redesignation to attainment. The Pittsburgh Area will remain designated nonattainment for the 1997 8-hour ozone NAAQS until such time as EPA determines that the Pittsburgh Area meets the Clean Air Act (CAA) requirements for redesignation to attainment, including an approved maintenance plan. These actions are being taken under the CAA.

**DATES:** Written comments must be received on or before January 9, 2013.

**ADDRESSES:** Submit your comments, identified by Docket ID EPA-R03-OAR-2012-0409 by one of the following methods: