

**ENVIRONMENTAL PROTECTION AGENCY**

[FRL-9909-38-Region-3]

**Adequacy Status of the Submitted Maintenance Plan for the West Virginia Portion of the Martinsburg-Hagerstown, WV-MD 1997 Fine Particulate Matter National Ambient Air Quality Standard Nonattainment Area for Transportation Conformity Purposes**

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

**ACTION:** Notice of adequacy.

**SUMMARY:** In this notice, the Environmental Protection Agency (EPA) is notifying the public that EPA has found that the Motor Vehicle Emissions Budgets (MVEBs) in the West Virginia Portion of the Martinsburg-Hagerstown, WV-MD 1997 Fine Particulate Matter (PM<sub>2.5</sub>) National Ambient Air Quality

Standard (NAAQS) Nonattainment Area Maintenance Plan (Martinsburg Maintenance Plan), submitted as a State Implementation Plan (SIP) revision by the West Virginia Department of Environmental Protection (WVDEP), are adequate for transportation conformity purposes. As a result of EPA's finding, the State of West Virginia must use the 2017 and 2025 MVEBs from the Martinsburg Maintenance Plan for future conformity determinations for the 1997 PM<sub>2.5</sub> NAAQS.

**DATES:** This notice is effective on April 28, 2014.

**FOR FURTHER INFORMATION CONTACT:** Asrah Khadr, Environmental Engineer, Office of Air Program Planning (3AP30), United States Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, PA 19103, (215) 814-2071; [khadr.asrah@epa.gov](mailto:khadr.asrah@epa.gov).

**SUPPLEMENTARY INFORMATION:** Today's notice is simply an announcement of a finding that EPA has already made. EPA

Region III sent a letter to WVDEP on March 6, 2014, stating that EPA has found that the MVEBs in the Martinsburg Maintenance Plan for budget years 2017 and 2025, submitted on August 5, 2013 by WVDEP, are adequate for transportation conformity purposes. As a result of EPA's finding, the State of West Virginia must use the 2017 and 2025 MVEBs from the August 5, 2013 Martinsburg Maintenance Plan for future conformity determinations in the West Virginia Portion of the Martinsburg-Hagerstown, WV-MD 1997 PM<sub>2.5</sub> NAAQS Nonattainment Area. Receipt of the submittal was announced on EPA's transportation conformity Web site. No comments were received. The findings letter is available at EPA's conformity Web site: <http://www.epa.gov/otaq/stateresources/transconf/adequacy.htm>. The adequate direct particulate matter (PM)<sub>x</sub> and nitrogen oxides (NO<sub>x</sub>) MVEBs are provided in Table 1.

TABLE 1—MARTINSBURG MAINTENANCE PLAN MVEBS FOR DIRECT PM AND NO<sub>x</sub>

Budget years	Mobile vehicle emissions budget for direct PM-tons per year	Mobile vehicle emissions budget for NO <sub>x</sub> -tons per year
2017 .....	83	2,621
2025 .....	50	1,660

Transportation conformity is required by section 176(c) of the Clean Air Act (CAA). EPA's conformity rule requires that transportation plans, transportation improvement programs, and projects conform to SIPs and establishes the criteria and procedures for determining whether or not they do. 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 MVEBs are adequate for conformity purposes are outlined in 40 CFR 93.118(e)(4). EPA described the process for determining the adequacy of submitted SIP budgets in a July 1, 2004 preamble starting at 69 FR 40038 and used the information in these resources in making this adequacy determination. West Virginia did not provide emission budgets for sulfur dioxide (SO<sub>2</sub>), volatile organic compounds (VOCs), or ammonia for the West Virginia Portion of the Martinsburg-Hagerstown, WV-MD 1997 PM<sub>2.5</sub> NAAQS Nonattainment Area because it concluded that emissions of these precursors from motor vehicles are

not significant contributors to the area's PM<sub>2.5</sub> air quality problem. The transportation conformity rule provision at 40 CFR 93.102(b)(2)(v) indicates that conformity pdoes not apply for these precursors, due to the lack of MVEBs for these precursors and the State's conclusion that motor vehicle emissions of SO<sub>2</sub>, VOCs, and ammonia do not contribute significantly to the area's PM<sub>2.5</sub> nonattainment problem. This provision of the transportation conformity rule predates and was not disturbed by the January 4, 2013 decision in the litigation on the PM<sub>2.5</sub> implementation rule.<sup>1</sup> EPA has preliminarily concluded that the State's decision to not include budgets for SO<sub>2</sub>, VOCs, and ammonia is consistent with the requirements of the transportation

<sup>1</sup> EPA issued conformity regulations to implement the 1997 PM<sub>2.5</sub> NAAQS (69 FR 40004, July 1, 2004 and 70 FR 24280, May 6, 2005, respectively). Those actions were not part of the final rule recently remanded to EPA by the Court of Appeals for the District of Columbia in *NRDC v. EPA*, No. 08-1250 (January 4, 2013), in which the Court remanded to EPA the implementation rule for the PM<sub>2.5</sub> NAAQS because it concluded that EPA must implement that NAAQS pursuant to the PM-specific implementation provisions of subpart 4 of Part D of Title I of the CAA, rather than solely under the general provisions of subpart 1.

conformity rule. That decision does not affect EPA's adequacy finding for the submitted direct PM and NO<sub>x</sub> MVEBs for the West Virginia Portion of the Martinsburg-Hagerstown, WV-MD 1997 PM<sub>2.5</sub> NAAQS Nonattainment Area.

Please note that an adequacy review is separate from EPA's completeness review, and should not be used to prejudice EPA's ultimate approval action for the SIP. Even if EPA finds the budgets for the Martinsburg Maintenance Plan adequate, the SIP could later be disapproved. The finding and the response to comments are available at EPA's conformity Web site: <http://www.epa.gov/otaq/stateresources/transconf/adequacy.htm>.

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

**W.C. Early,**

*Acting Regional Administrator, Region III.*

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