

about whether, and what type of brokerage window to include in their plan?

34. How often do plan participants use an adviser or a provider of managed account services to help them make investments through a plan brokerage window?

35. Do plans generally make advisers or managed account providers available to participants for this purpose and, if so, do the advisers or managed account providers typically contract with the plan or with the participant?

36. How often do plan participants independently select advisers or other providers to assist with their investments through the brokerage window? Are plan fiduciaries, recordkeepers, or other service providers generally aware of these arrangements?

#### *Fiduciary Duties*

In connection with the issuance of FAB 2012-02 and FAB 2012-02R, the Department became aware of the possibility that plan fiduciaries and service providers have questions regarding the nature and extent of ERISA's fiduciary of duties under section 404(a) of ERISA in connection with brokerage windows in plans intended to be "ERISA 404(c) plans."

37. Do these questions indicate a need for guidance, regulatory or otherwise, on brokerage windows under ERISA's fiduciary provisions? For instance, is there a need to clarify the extent of a fiduciary's duties of prudence, loyalty, and diversification under section 404(a) of ERISA, both with respect to brokerage window itself, as a plan feature, and with respect to the investments through the window? If guidance is needed, please try to identify the precise circumstances in need of guidance. If no guidance is needed, please explain why not.

#### *Annual Reporting and Periodic Pension Benefit Statements*

38. The annual reporting requirements contain a special provision for plans with brokerage windows. Specifically, subject to certain exceptions, the Schedule H allows plans to report certain classes of investments made through a brokerage window as an aggregate amount under a catch-all "other" category rather than by type of asset on the appropriate line item from the asset category, e.g., common stocks, mutual funds, employer securities, etc. Should this special provision be changed to require more detail and transparency regarding these investments? If so, what level of transparency is appropriate, taking into

account current technology and the administrative burdens and costs of increased transparency?

39. ERISA section 105 requires plans to furnish benefit statements at least quarterly in the case of participant-directed individual account plans. How do these benefit statements typically reflect investments made through brokerage windows?

Signed at Washington, DC, this 7th day of August 2014.

**Phyllis C. Borzi,**

*Assistant Secretary, Employee Benefits Security Administration, Department of Labor.*

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## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 52**

**[EPA-RO1-OAR-2012-0848; A-1-FRL-9912-99-Region 1]**

#### **Approval and Promulgation of Air Quality Implementation Plans; New Hampshire; Reasonably Available Control Technology for Nitrogen Oxides and Volatile Organic Compounds**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve State Implementation Plan (SIP) revisions submitted by the State of New Hampshire. These revisions contain an updated New Hampshire regulation establishing reasonably available control technology (RACT) for sources of nitrogen oxides (NO<sub>x</sub>), RACT orders for four facilities, and a request to withdraw a previously approved NO<sub>x</sub> RACT order from the SIP. The intended effect of this action is to propose approval of this updated regulation and four RACT orders into the New Hampshire SIP, and to propose to withdraw from the SIP a previously approved NO<sub>x</sub> RACT order. This action is being taken in accordance with the Clean Air Act.

**DATES:** Written comments must be received on or before September 22, 2014.

**ADDRESSES:** Submit your comments, identified by Docket ID No. RO1-OAR-2012-0848 by one of the following methods:

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

2. *E-Mail*: [arnold.anne@epa.gov](mailto:arnold.anne@epa.gov).

3. *Fax*: (617) 918-0047.

4. *Mail*: "EPA-RO1-OAR-2012-0848," 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, (Mail code OEP05-2), 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 a.m. to 4:30 p.m., excluding legal holidays.

Please see the direct final rule which is located in the Rules Section of this **Federal Register** for detailed instructions on how to submit comments.

**FOR FURTHER INFORMATION CONTACT:** Bob McConnell, Air Quality Planning Unit, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square, Suite 100 (mail code: OEP05-2), Boston, MA 02109-3912, telephone number (617) 918-1046, fax number (617) 918-0046, email [mcconnell.robert@epa.gov](mailto:mcconnell.robert@epa.gov).

**SUPPLEMENTARY INFORMATION:** 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 detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action rule, 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. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

For additional information, see the direct final rule which is located in the Rules Section of this **Federal Register**.

Dated: July 29, 2014.

**H. Curtis Spalding,**

*Regional Administrator, EPA New England.*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Parts 52 and 81

[EPA-R03-OAR-2014-0281; FRL- 9915-49-Region-3]

#### Approval and Promulgation of Air Quality Implementation Plans; Maryland; Redesignation Request and Associated Maintenance Plan for the Maryland Portion of the Martinsburg-Hagerstown, WV-MD Nonattainment Area for the 1997 Annual Fine Particulate Matter Standard

**AGENCY:** Environmental Protection Agency.

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve the State of Maryland's request to redesignate to attainment the Maryland portion of the Martinsburg-Hagerstown, WV-MD Nonattainment Area (Martinsburg Area or Area) for the 1997 annual fine particulate matter (PM<sub>2.5</sub>) national ambient air quality standard (NAAQS). The Maryland portion of the Martinsburg Area is comprised of Washington County, Maryland. EPA has determined that the Martinsburg Area attained the standard and continues to attain the standard. In addition, EPA is proposing to approve, as a revision to the Maryland State Implementation Plan (SIP), the Washington County maintenance plan to show maintenance of the 1997 annual PM<sub>2.5</sub> NAAQS through 2025 for the Maryland portion of 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 Washington County, Maryland for the 1997 annual PM<sub>2.5</sub> NAAQS, which EPA is proposing to approve for transportation conformity purposes. These actions are being taken under the Clean Air Act (CAA).

**DATES:** Written comments must be received on or before September 22, 2014.

**ADDRESSES:** Submit your comments, identified by Docket ID Number EPA-R03-OAR-2014-0281 by one of the following methods:

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

B. *Email:* [fernandez.cristina@epa.gov](mailto:fernandez.cristina@epa.gov).  
C. *Mail:* EPA-R03-OAR-2014-0281, 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-2014-0281. 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, 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).

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#### I. Background

The first air quality standards for PM<sub>2.5</sub> were established on July 18, 1997 (62 FR 38652). EPA promulgated an annual standard at a level of 15 micrograms per cubic meter (µg/m<sup>3</sup>), based on a three-year average of annual mean PM<sub>2.5</sub> concentrations (the 1997 annual PM<sub>2.5</sub> standard). In the same rulemaking, EPA promulgated a 24-hour standard of 65 µg/m<sup>3</sup> based on a three-year average of the 98th percentile of 24-hour concentrations.

On January 5, 2005 (70 FR 944, 1014), EPA published air quality area designations for the 1997 PM<sub>2.5</sub> NAAQS. In that rulemaking action, EPA designated the Martinsburg Area as nonattainment for the 1997 annual PM<sub>2.5</sub> NAAQS. The Martinsburg Area is comprised of Washington County in Maryland and Berkeley County in West Virginia. See 40 CFR 81.321 (Maryland) and 40 CFR 81.349 (West Virginia).

On October 17, 2006 (71 FR 61144), EPA retained the annual average standard at 15 µg/m<sup>3</sup>, but revised the 24-hour standard to 35 µg/m<sup>3</sup>, based again on the three-year average of the 98th percentile of the 24-hour concentrations (the 2006 annual PM<sub>2.5</sub> standard). On November 13, 2009 (74 FR 58688), EPA published designations for the 2006 24-