direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

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

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

Dated: December 21, 2018.

Mary S. Walker,

Acting Regional Administrator, Region 4.

[FR Doc. 2019–01863 Filed 2–11–19; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2018–0730; FRL–9989–12—Region 3]

Approval and Promulgation of Air Quality Implementation Plans; Maryland; Removal of Stage II Gasoline Vapor Recovery Program Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a state implementation plan (SIP) revision submitted by the State of Maryland. This revision seeks to remove requirements for gasoline vapor recovery systems installed on gasoline dispensers, the purpose of which are to capture emissions from vehicle refueling operations (otherwise known as Stage II vapor recovery). Specifically, this action would remove from the approved SIP prior approved Stage II requirements applicable to new gasoline dispensing facilities (GDFs) and existing GDF's undergoing major modification. GDF's will have the choice whether to install Stage II at new stations or whether to decommission Stage II at existing stations already equipped with Stage II. Owners that elect to retain existing Stage II equipment can do so, but in doing must continue to test and to maintain or replace existing equipment. Maryland's SIP revision includes a demonstration that removal of Stage II requirements is consistent with the Clean Air Act (CAA) and meets all relevant EPA guidance.

DATES: Written comments must be received on or before March 14, 2019.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R03–OAR–2018–0730 at *http://www.regulations.gov,* or via email to *spielberger.susan@epa.gov.* For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Brian Rehn, (215) 814–2176, or by email at *rehn.brian@epa.gov.*

SUPPLEMENTARY INFORMATION:

Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we refer to EPA. The following outline is provided to aid in locating information in this preamble.

I. Background and Purpose

On August 25, 2017, the Maryland Department of the Environment (MDE) submitted a revision to its SIP. This SIP submittal consists of Maryland's revised Stage II requirement regulations, at COMAR 26.11.24, *Vapor Recovery at Gasoline Dispensing Facilities,* which have been revised to allow the decommissioning of existing Stage II vapor recovery systems and which allows newly constructed GDFs (or those undergoing major modifications) the option not to install Stage II equipment. The SIP submittal also includes a demonstration that removal of Stage II vapor recovery systems in Maryland will not interfere with any requirement concerning attainment or reasonable progress of any National Ambient Air Quality Standard (NAAQS), or any other applicable requirement of the CAA. Maryland's SIP demonstration is also intended to show that removal of Stage II requirements is consistent with all relevant EPA guidance.

Stage II vapor recovery is an emission control system that is installed on gasoline dispensing equipment at GDFs for the purpose of capturing fuel vapor that would otherwise be released from vehicle gas tanks into the atmosphere during vehicle refueling. Stage II vapor recovery systems installed on dispensing equipment capture these refueling emissions at the dispenser and route the refueling vapors back to the GDF's underground storage tank, preventing volatile organic compounds (VOCs) that comprise these vapors from escaping to the atmosphere.

Beginning in 1998, newly manufactured gasoline-burning cars and trucks have been equipped with on-board vapor recovery (ORVR) systems that utilize carbon canisters installed directly on the vehicle to capture refueling vapors in the vehicle to be later routed to the vehicle's engine for combustion during engine operation.

Stage II vapor recovery systems and ORVR systems were initially both required by the 1990 amendments to the CAA. Section 182(b)(3) of the CAA requires areas classified as moderate and above ozone nonattainment to implement Stage II vapor recovery programs. Also, under CAA section 184(b)(2), states in the Northeast Ozone Transport Region (OTR) are required to implement Stage II or comparable measures. CAA section 202(a)(6) required EPA to promulgate regulations for ORVR for light-duty cars and trucks (passenger vehicles). EPA adopted these requirements in a final action published in the April 6, 1994 **Federal Register** (59 FR 16262 (hereafter referred to as the ORVR rule). Upon the effective date of that final rule, moderate ozone nonattainment areas were no longer subject to CAA section 182(b)(3) Stage II vapor recovery requirements. Under the ORVR rule, new passenger cars built in model year 1998 and later were required to be equipped with ORVR systems, followed by model year 2001 and later light-duty trucks. ORVR equipment has been installed on nearly all new gasoline-powered light-duty cars, light-

duty trucks, and heavy-duty vehicles manufactured since 2006.[1]

During the phase-in of ORVR controls, Stage II has provided VOC emission reductions in ozone nonattainment areas and in certain areas of the OTR. Congress recognized that ORVR systems and Stage II vapor recovery systems would over time become largely redundant technologies acting to capture the same pollutants. Therefore, Congress provided authority in the 1990 amendments to the CAA for EPA to allow states to remove Stage II vapor recovery programs from their SIPs upon EPA making a finding that ORVR is in ''widespread use.'' EPA issued a widespread use finding in a final rule published in the May 16, 2012 **Federal Register** (77 FR 28772), in which EPA determined that ORVR was in widespread use on a nationwide basis. EPA estimated that as of the end of 2016, more than 88 percent of gasoline refueling nationwide would occur with ORVR-equipped vehicles.[2] Thus, Stage II vapor recovery programs have become largely redundant control systems (for ORVR-equipped vehicles) and as a result, Stage II vapor recovery systems achieve ever declining emissions benefits as more ORVR-equipped vehicles continue to enter the on-road motor vehicle fleet.[3] In areas where certain types of vacuum-assist Stage II vapor recovery systems are used, the interaction between ORVR systems and certain configurations of Stage II vapor recovery systems results in the reduction of overall control system efficiency in capturing VOC refueling emissions compared to what would otherwise be achieved by ORVR or Stage II acting in the absence of the other. In its May 16, 2012 widespread use rulemaking, EPA also exercised its authority under CAA section 202(a)(6) to waive certain federal statutory requirements for Stage II vapor recovery systems at GDFs, which among other things, exempted all new ozone nonattainment areas classified serious or above from the requirement to adopt Stage II vapor recovery programs. Finally, EPA's May 16, 2012 rulemaking also noted that any state currently implementing Stage II vapor recovery program may submit SIP revisions that would allow for the phase-out of Stage II vapor recovery systems.

II. Summary of Maryland's Stage II Vapor Recovery Program and SIP Revisions

The Maryland portion of the Philadelphia-Wilmington-Trenton, PA–NJ–DE–MD metropolitan area (hereafter referred to as the Maryland portion of the Philadelphia area or the Philadelphia area) and the Baltimore, MD metropolitan area were designated by the CAA as severe nonattainment for the 1979 1-hour ozone NAAQS.[4] At the same time, the Maryland portion of the Washington, DC–MD–VA metropolitan area (hereafter referred to as the Maryland portion of the Washington area, or the Washington area) was designated as serious nonattainment under the 1-hour ozone NAAQS. As a result, Maryland adopted Stage II vapor recovery regulations (COMAR 26.11.24) for the Maryland portion of the Washington area, the Maryland portion of the Philadelphia area, and for the Baltimore, MD area on January 18, 1993 (Maryland Register, February 5, 1993, Vol. 20, Issue 3). Maryland submitted a revision to EPA on January 18, 1993 to request the addition of Maryland Stage II requirements to the Maryland SIP, which EPA approved in a final action published in the June 9, 1994 **Federal Register** (59 FR 29730). Maryland submitted a revised version of this regulation to EPA as a SIP revision on May 23, 2002, which EPA approved in a final action published in the May 7, 2003 **Federal Register** (68 FR 24363). Maryland further amended its Stage II regulation on January 26, 2005, and EPA approved that revised rule as a revision to the Maryland SIP in a final rule published in the May 8, 2006 **Federal Register** (71 FR 26688).

Maryland was also required to adopt Stage II, or comparable measures, on a statewide basis under the Stage II OTR provisions of CAA section 184(b)(2). Maryland submitted a comparable measures demonstration to satisfy the Stage II comparability requirement to EPA on November 5, 1997. EPA approved Maryland's November 1997 Stage II comparability SIP in a final rule published in the December 9, 1998 **Federal Register** (63 FR 67780). Maryland's OTR Stage II comparability demonstration relied on five area source VOC control rules as comparable measures to Stage II.

On August 25, 2017, Maryland submitted a SIP revision to EPA consisting of revised Stage II requirements (COMAR26.11.24) adopted by MDE on November 2, 2015 (state effective November 23, 2015), along with a demonstration of the emission impacts of removal of the Stage II requirements on affected Maryland areas. The revised rule removes the requirements for new Stage II vapor recovery systems in Maryland Stage II areas, while allowing GDFs with installed Stage II systems the option to decommission their equipment or to retain it. Maryland's revised Stage II vapor recovery requirements rule incorporates by reference requirements and procedures for stations opting to decommission Stage II vapor recovery equipment, based on Section 14 of the Petroleum Equipment Institute's *Recommended Practices for Installation and Testing of Vapor Recovery Systems at Vehicle-Fueling Sites,* 2009 edition, PEI/RP300–09.

Under Maryland's revised rule, GDFs opting to continue to operate Stage II vapor recovery equipment, as well as those opting to decommission Stage II vapor recovery equipment, are subject to continued testing requirements (at specified intervals) and recordkeeping and reporting requirements related to testing. Maryland's revised rule incorporates by reference several test methods applicable to GDFs that opt to decommission or to continue to operate Stage II vapor recovery systems (*Leak Rate and Cracking Pressure of Pressure/Vacuum Valves,* TP–201.1E, California EPA Air Resources Board) and (*Determination of Vapor Piping Connections to Underground Gasoline Storage Tanks (Tie-Tank Test),* TP–201.3C, California EPA Air Resources Board). For GDFs opting to continue Stage II operation (in addition to prior Stage II test requirements), new tests are added to include a periodic leak rate and cracking pressure test (per TP–201.1E), as well as a tie tank test (per TP–201.3C). GDFs opting to decommission will be subject only to the newly added periodic leak rate and cracking pressure test (TP–201.1E) and the tie tank test (TP–201.3C). Copies of test results must be forwarded to MDE within 30 days of the test.

The August 25, 2017 SIP revision also includes a demonstration supporting the discontinuation of the Maryland Stage II vapor recovery program. This demonstration, discussed in greater detail below, consists of an analysis that after the year 2016, the overall emissions benefits associated with the Stage II program (operated in conjunction with ORVR) are overwhelmed by an emissions disbenefit caused by an ORVR incompatibility with certain vacuum-assist type Stage II equipment. MDE's

[1] EPA Guidance on Removing Stage II Gasoline Vapor Control Programs from State Implementation Plans and Assessing Comparable Measures, August 7, 2012, Table A–1.

[2] EPA Guidance on Removing Stage II Gasoline Vapor Control Programs from State Implementation Plans and Assessing Comparable Measures, Table A–1, August 7, 2012.

[3] EPA Guidance on Removing Stage II Gasoline Vapor Control Programs from State Implementation Plans and Assessing Comparable Measures, p.1.

[4] 40 CFR 81–321, effective November 15, 1990.

analysis shows that continued operation of the Stage II vapor recovery program beyond 2016 actually increases VOC emissions due to the incompatibility between certain Stage II and ORVR equipment, coupled with the increasing prevalence of ORVR-equipped vehicles. While Maryland is not requiring every Stage II-equipped GDF to decommission their equipment, it is assumed a majority of existing stations will do so upon the removal of state and federal Stage II mandates. Even if all stations do no decommission their equipment (or delay doing so), overall emission benefits will be improved by the shift to primarily ORVR use in current Stage II subject areas.

III. EPA's Evaluation of Maryland's SIP Revision

EPA has reviewed Maryland's revised COMAR 26.11.24, *Vapor Recovery at Gasoline Dispensing Facilities,* and accompanying SIP narrative, and has concluded that Maryland's August 25, 2017 SIP revision is consistent with EPA's widespread use rule (77 FR 28772, May 16, 2012) and with EPA's ''Guidance on Removing Stage II Gasoline Vapor Control Programs from State Implementation Plan and Assessing Comparable Measures'' (EPA–457/B–12–001; August 7, 2012), hereafter referred to as EPA's Stage II Removal Guidance.

Maryland's August 25, 2017 SIP revision includes a demonstration supporting the discontinuation of the Maryland Stage II vapor recovery program, in compliance with the requirements of the CAA sections 110(l) requirement that revision of the SIP will not interfere with attainment of or reasonable further progress towards attainment of any NAAQS or any other applicable CAA requirement. This demonstration was prepared by MDE based on relevant equations provided in EPA's Stage II Removal Guidance. From this analysis, Maryland determined that by 2016 the emissions benefits from the Stage II vapor recovery program (in conjunction with ORVR) will be overwhelmed by the emission disbenefits stemming from an incompatibility between certain Stage II vacuum-assist based systems and ORVR. Beyond 2016, the continuation of Stage II vapor recovery requirements would increase emissions in the Maryland portions of all analyzed areas, as summarized in Table 1. Based on this analysis, Maryland elected to allow decommissioning of Stage II vapor recovery systems beginning in October 2016.

TABLE 1—STAGE II VOC REDUCTIONS FOR MARYLAND OZONE NONATTAINMENT COUNTIES/AREAS

[In metric tons per day]

County	2014	2015	2016	2017	2018	2019	2020
Anne Arundel	0.07	0.01	−0.03	−0.07	−0.09	−0.11	−0.12
Baltimore	0.09	0.01	−0.05	−0.09	−0.13	−0.15	−0.17
Calvert	0.01	0.01	−0.00	−0.01	−0.01	−0.01	−0.02
Carroll	0.02	0.00	−0.01	−0.02	−0.02	−0.03	−0.03
Cecil	0.04	0.02	0.01	0.00	−0.01	−0.01	−0.02
Charles	0.02	0.01	0.00	−0.01	−0.02	−0.03	−0.03
Frederick	0.05	0.02	−0.01	−0.03	−0.04	−0.05	−0.06
Harford	0.03	0.01	−0.01	−0.03	−0.04	−0.05	−0.05
Howard	0.04	0.00	−0.02	−0.05	−0.06	−0.08	−0.08
Montgomery	0.11	0.03	−0.03	−0.08	−0.12	−0.15	−0.17
Prince George's	0.13	0.04	−0.04	−0.09	−0.13	−0.16	−0.18
Baltimore City	0.03	0.00	−0.03	−0.05	−0.06	−0.07	−0.08
Baltimore Area Total	0.28	0.04	−0.15	−0.30	−0.41	−0.48	−0.54
Maryland Portion of Washington Area Total	0.33	0.10	−0.08	−0.22	−0.33	−0.40	−0.46
Maryland Portion of Philadelphia Area Total	0.04	0.02	0.01	0.00	−0.01	−0.01	−0.02
Stage II Area Total	0.65	0.17	−0.22	−0.52	−0.74	−0.90	−1.01

In evaluating whether a given SIP revision would interfere with attainment of a NAAQS, EPA generally considers whether the SIP revision will allow for an increase in actual emission into the air over what is allowed under the existing EPA-approved SIP. EPA has not required that states produce a new complete attainment demonstration for every SIP revision, provided that the status quo air quality is preserved. See *e.g., Kentucky Resources Council, Inc.* v. *EPA,* 467 F.3d 986 (6th Cir. 2006).[5] EPA believes that a planned Stage II decommissioning that is shown not to result in an increase in areawide VOC emissions would be consistent with the conditions of CAA section 110(l), and would not jeopardize attainment or maintenance of an area that formerly relied upon Stage II emission reductions in the approved SIP. Maryland has demonstrated that Stage II vapor recovery will no longer provide emission reductions when compared to ORVR without Stage II vapor recovery in all Maryland ozone nonattainment areas. Since 2016, Stage II vapor recovery (operated in conjunction with ORVR) has been shown by Maryland to result in increased VOC emissions in Maryland's three ozone nonattainment areas—due to incompatibilities between certain types of Stage II equipment and vehicle ORVR systems. Therefore, EPA believes discontinuance of Stage II in Maryland's three ozone nonattainment areas will not interfere with those areas' ability to attain or maintain the NAAQS, or to provide reasonable further progress in meeting the NAAQS.

[5] EPA Guidance on Removing Stage II Gasoline Vapor Control Programs from State Implementation Plans and Assessing Comparable Measures, August 7, 2012, Section 2.2.

States in the OTR defined by the CAA remain obligated under CAA section 184(b)(2) to implement (on a statewide basis) either a Stage II vapor recovery program, or other measures capable of achieving emission reductions ''comparable to those achievable'' by Stage II vapor recovery. EPA issued guidance on this OTR comparability demonstration in 1995 and later updated that guidance as part of its August 2012 Stage II Removal Guidance—in light of the decreasing role of Stage II as a means of controlling refueling emissions and the increasing prominence of ORVR-equipped vehicles.

Maryland submitted a comparable measures SIP revision to EPA on November 5, 1997 demonstrating that control measures already implemented in those counties in Maryland not subject to Stage II vapor recovery under CAA section 182(b)(3) achieved comparable emission reductions to Stage II vapor recovery. Maryland's chosen Stage II comparable measures included non-point, or area source, controls on: Cold and vapor degreasing operations, lithographic printing, screen printing, expandable polystyrene operations, and vehicle refinishing. To address areas in Maryland subject to Stage II or a comparable measure (as a result of the CAA section 184 requirements specific to OTR states), EPA approved Maryland's November 1997 Stage II comparability SIP for attainment and marginal ozone nonattainment counties in a final action published in the December 9, 1998 **Federal Register** (63 FR 67780). Maryland is not required to further demonstrate Stage II comparability for those counties as that action remains in effect.

However, Maryland is required to newly demonstrate Stage II comparability for the Philadelphia, Baltimore, and Washington areas—where Stage II vapor recovery was previously mandated by CAA section 182(b)(3) prior to EPA's issuance of its ORVR ''widespread use'' determination. The 110(l) demonstration in Maryland's August 25, 2017 SIP revision shows that Stage II no longer yields VOC emissions benefits in these three nonattainment areas after 2016, when operated in conjunction with ORVR. Therefore, since Stage II provides no additional benefits beyond ORVR (and results in increases in VOC emissions beyond 2016) in these three nonattainment areas, EPA believes that removal of Stage II after 2016 satisfies the Stage II comparability requirement of section 184 for these three ozone nonattainment areas.

In addition to the CAA section 182 and 184 requirements applicable to Stage II vapor recovery, CAA section 193 prohibits modification of any control requirement in effect before enactment of the CAA of 1990 (*i.e.,* November 15, 1990) in a current nonattainment area—unless modification ''ensures equivalent or greater emission reductions.'' Therefore, a Stage II vapor recovery control program implemented under a SIP prior to November 1990 may not be removed from the SIP until another requirement is shown to achieve equal or greater emissions reductions than Stage II vapor recovery. Maryland did not have a Stage II program prior to November 15, 1990, so Stage II was not a part of the Maryland SIP prior to that date. Therefore, this ''general savings clause'' requirement of CAA section 193 does not apply to Maryland or to this action.

IV. Proposed Action

EPA is proposing to approve Maryland's August 25, 2017 SIP revision for statewide removal of Stage II vapor recovery requirements. Specifically, EPA is proposing to approve Maryland's revised COMAR 26.11.24, *Vapor Recovery at Gasoline Dispensing Facilities,* and incorporate it into the Maryland SIP. EPA is proposing to approve this SIP revision because it meets all applicable requirements of the Clean Air Act and relevant EPA guidance and because approval of this SIP revision will not interfere with attainment or maintenance of the ozone NAAQS.

EPA is soliciting public comments on the issues discussed in this notice or other relevant matters. These comments will be considered before taking final action.

V. Incorporation by Reference

In this proposed rule, EPA proposes to include in our subsequent final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is proposing to incorporate by reference the State of Maryland's revised COMAR 26.11.24 Vapor Recovery at Gasoline Dispensing Facilities (effective date November 23, 2015), which includes amendments to Regulations .01, .01–1, .02, .03, .03–1, .04, and .07 and the addition of Regulation .03–1. EPA has made, and will continue to make, these materials generally available through *http://www.regulations.gov* and at the EPA Region III Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

VI. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA 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 proposed action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866.
- 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 (Public Law 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 to remove Maryland Stage II vapor recovery requirements 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, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: December 28, 2018.

Cecil Rodrigues,

Acting Regional Administrator, Region III.

[FR Doc. 2019–01882 Filed 2–11–19; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R08–OAR–2018–0353: FRL–9988–98—Region 8]

Clean Data Determination; Provo, Utah 2006 Fine Particulate Matter Standards Nonattainment Area

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to make a clean data determination (CDD) for the 2006 24-hour fine particulate matter ($PM_{2.5}$) Provo, Utah (UT) nonattainment area (NAA). The proposed determination is based upon quality-assured, quality-controlled, and certified ambient air monitoring data for the period 2015–2017, available in the EPA's Air Quality System (AQS) database, showing the area has monitored attainment of the 2006 24-hour $PM_{2.5}$ National Ambient Air Quality Standards (NAAQS). Based on our proposed determination that the Provo, UT NAA is currently attaining the 24-hour $PM_{2.5}$ NAAQS, the EPA is also proposing to determine that the obligation for Utah to make submissions to meet certain Clean Air Act (CAA or the Act) requirements related to attainment of the NAAQS for this area is not applicable for as long as the area continues to attain the NAAQS.

DATES: Comments must be received on or before March 14, 2019.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R08–OAR–2018–0353 at *https://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *www.regulations.gov.* The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information the disclosure of which is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Crystal Ostigaard, Air Program, U.S. EPA, Region 8, Mailcode 8P–AR, 1595 Wynkoop Street, Denver, Colorado 80202–1129, (303) 312–6602, *ostigaard.crystal@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, wherever ''we'', ''us'' or ''our'' is used, it is intended to refer to the EPA.

I. Background

On October 17, 2006 (71 FR 61144), the EPA revised the level of the 24-hour $PM_{2.5}$ NAAQS, lowering the primary and secondary standards from the 1997 standard of 65 micrograms per cubic meter ($\mu g/m^3$) to 35 $\mu g/m^3$. The EPA retained the form of the 1997 24-hour standard, that is, the 98th percentile of the annual 24-hour concentrations at each population-oriented monitor within an area, averaged over 3 years. *See* 71 FR 61164–5 (October 17, 2006).

On November 13, 2009 (74 FR 58688), the EPA designated a number of areas as nonattainment for the 24-hour $PM_{2.5}$ NAAQS of 35 $\mu g/m^3$, including the Provo, UT NAA. The EPA originally designated these areas under the general provisions of CAA title I, part D, subpart 1 (''subpart 1''), under which attainment plans must provide for the attainment of a specific NAAQS (in this case, the 2006 $PM_{2.5}$ standards) as expeditiously as practicable, but no later than 5 years from the date the areas were designated nonattainment.

Subsequently, on January 4, 2013, the U.S. Court of Appeals for the District of Columbia Circuit held in *NRDC* v. *EPA* [1] that the EPA should have implemented the 2006 24-hour $PM_{2.5}$ standard based on both the general NAA requirements in subpart 1 and the PM-specific requirements of CAA title I, part D, subpart 4 (''subpart 4''). In response to the Court's decision in *NRDC* v. *EPA,* on June 2, 2014 (79 FR 31566), the EPA finalized the ''Identification of Nonattainment Classification and Deadlines for Submission of State Implementation Plan (SIP) Provisions for the 1997 Fine Particulate ($PM_{2.5}$) NAAQS and 2006 $PM_{2.5}$ NAAQS.'' This rule classified the areas that were designated in 2009 as nonattainment to Moderate and set the attainment SIP submittal due date for those areas at December 31, 2014. After the court's decision and the EPA's June 2, 2014 rule, on December 16, 2014 the Utah Division of Air Quality (UDAQ) withdrew all prior Provo, UT $PM_{2.5}$ SIP submissions and submitted a new SIP to address both the general requirements of subpart 1 and the PM-specific requirements of subpart 4 for Moderate areas.

On August 24, 2016, the EPA finalized the Fine Particulate Matter National Ambient Air Quality Standards: State Implementation Plan Requirements (''$PM_{2.5}$ SIP Requirements Rule''), 81 FR 58010, which addressed the January 4, 2013, court ruling. The final $PM_{2.5}$ SIP Requirements Rule provides the EPA's interpretation of the requirements applicable to $PM_{2.5}$ NAAs and explains how air agencies can meet the statutory SIP requirements that apply under subparts 1 and 4 to areas designated nonattainment for any $PM_{2.5}$ NAAQS.

The EPA has previously acted on portions of Utah's Moderate area attainment plan for the Provo, UT NAA. Specifically, we approved certain area source rules and related reasonably available control measure (RACM) analyses on February 25, 2016 (81 FR 9343), October 19, 2016 (81 FR 71988) and September 14, 2017 (82 FR 43205). We have not disapproved any portions of the plan; as a result, the clocks for sanctions under 179(a) and for a Federal Implementation Plan (FIP) under 110(c) are not in effect for the Provo, UT NAA.

Finally, on May 10, 2017 (82 FR 21711), the EPA determined that the Provo, UT NAA failed to attain the 2006 24-hour $PM_{2.5}$ NAAQS by the Moderate attainment date of December 31, 2015. With this determination, the Provo, UT NAA was reclassified as a ''Serious'' area for the 2006 24-hour $PM_{2.5}$ NAAQS, with a new attainment date of December

[1] 706 F.3d 428 (D.C. Cir. 2013).