

within this zone, during periods of enforcement, is prohibited unless authorized by Captain of the Port (COTP) Sector Northern New England.

(3) A speed limit of five (5) knots will be in effect within the regulated area. All vessels must proceed through the area with caution and operate in such a manner as to produce no wake.

(4) Vessels must comply with all directions given to them by the COTP Sector Northern New England or his on-scene representative. The “on-scene representative” of the COTP is any Coast Guard commissioned, warrant or petty officer who has been designated by the COTP to act on the COTP’s behalf. The on-scene representative may be on a Coast Guard vessel; New Hampshire State Police, Maine State Police, or other designated craft; or may be on shore and will communicate with vessels via VHF–FM radio or loudhailer. Members of the Coast Guard Auxiliary may be present to inform vessel operators of this regulation.

(5) Upon being hailed by a U.S. Coast Guard vessel by siren, radio, flashing light or other means, the operator of the vessel must proceed as directed.

(6) All other relevant regulations, including but not limited to the Rules of the Road (33 CFR Subchapter E, Inland Navigational Rules) remain in effect within the regulated area and should be strictly followed at all times.

(c) *Enforcement.* This regulated navigation area is enforceable 24 hours a day from December 22, 2011 until December 31, 2013.

(1) Notice of suspension of enforcement: If enforcement is suspended, the COTP will cause a notice of the suspension of enforcement by all appropriate means to be given the widest publicity among the affected segments of the public. Such means of notification may include, but are not limited to, Broadcast Notice to Mariners and Local Notice to Mariners. Such notification will include the date and time that enforcement is suspended as well as the date and time that enforcement will resume.

(2) Violations of this regulated navigation area may be reported to the COTP Sector Northern New England, at (207) 767–0303 or on VHF–Channel 16.

Dated: December 22, 2011.

**D.A. Neptun,**

*Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District.*

[FR Doc. 2012–175 Filed 1–9–12; 8:45 am]

**BILLING CODE 9110–04–P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[EPA–R03–OAR–2011–0801; FRL–9616–6]

**Approval and Promulgation of Air Quality Implementation Plans; District of Columbia, Maryland, Virginia, and West Virginia; Determinations of Attainment of the 1997 Fine Particle Standard for the Metropolitan Washington, DC–MD–VA and Martinsburg–Hagerstown, WV–MD Nonattainment Areas**

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

**ACTION:** Final rule.

**SUMMARY:** EPA is making determinations that the Metropolitan Washington, District of Columbia–Maryland–Virginia (DC–MD–VA) fine particle (PM<sub>2.5</sub>) nonattainment area and the Martinsburg–Hagerstown, West Virginia–Maryland (WV–MD) PM<sub>2.5</sub> nonattainment area (hereafter referred to as “Areas”) have attained the 1997 annual PM<sub>2.5</sub> National Ambient Air Quality Standard (NAAQS) by their applicable attainment date of April 5, 2010. These determinations are based upon complete, quality-assured, and certified ambient air monitoring data for the 2007–2009 monitoring period. EPA is finding these Areas to be in attainment, in accordance with the requirements of the Clean Air Act (CAA).

**DATES:** *Effective Date:* This final rule is effective on February 9, 2012.

**ADDRESSES:** EPA has established a docket for this action under Docket ID Number EPA–R03–OAR–2011–0801. 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.

**FOR FURTHER INFORMATION CONTACT:** Irene Shandruk, (215) 814–2166, or by email at [shandruk.irene@epa.gov](mailto:shandruk.irene@epa.gov).

**SUPPLEMENTARY INFORMATION:**

Throughout this document, whenever “we,” “us,” or “our” is used, we mean EPA.

**I. Background**

On July 18, 1997 (62 FR 36852), EPA established a health-based PM<sub>2.5</sub> NAAQS at 15.0 micrograms per cubic meter (µg/m<sup>3</sup>) based on a 3-year average of annual mean PM<sub>2.5</sub> concentrations (hereafter referred to as “the annual PM<sub>2.5</sub> NAAQS” or “the annual standard”). At that time, EPA also established a 24-hour standard of 65 µg/m<sup>3</sup> (the “1997 24-hour standard”). *See*, 40 CFR 50.7. On January 5, 2005 (70 FR 944), EPA published its air quality designations and classifications for the 1997 PM<sub>2.5</sub> NAAQS based upon air quality monitoring data from those monitors for calendar years 2001–2003. These designations became effective on April 5, 2005. The Metropolitan Washington, DC–MD–VA and the Martinsburg–Hagerstown, WV–MD nonattainment areas were designated nonattainment for the 1997 PM<sub>2.5</sub> NAAQS during this designations process. *See*, 40 CFR part 81.309 (the District), 40 CFR 81.321 (Maryland), 40 CFR 81.347 (Virginia), and 40 CFR 81.349 (West Virginia). The Metropolitan Washington, DC–MD–VA 1997 annual PM<sub>2.5</sub> nonattainment area consists of the District of Columbia (the District), a Northern Virginia portion (Arlington, Fairfax, Loudoun, and Prince William Counties and the cities of Alexandria, Falls Church, Fairfax, Manassas, and Manassas Park), and Charles, Frederick, Montgomery, and Prince George’s Counties in Maryland. The Martinsburg–Hagerstown, WV–MD 1997 annual PM<sub>2.5</sub> nonattainment area consists of Washington County in Maryland and Berkeley County in West Virginia.

EPA previously made clean data determinations related to the 1997 annual PM<sub>2.5</sub> NAAQS for each of these Areas pursuant to 40 CFR 51.1004(c). Determinations were made for the Metropolitan Washington Area, DC–MD–VA on January 12, 2009 (74 FR 1146) and for the Martinsburg–Hagerstown, WV–MD Area on November 20, 2009 (74 FR 60199). These clean data determinations remain in effect.

Under CAA section 179(c), EPA is required to make a determination that a nonattainment area has attained by its applicable attainment date, and publish that determination in the **Federal Register**. The determination of attainment is not equivalent to a redesignation, and the state must still meet the statutory requirements for



redesignation in order for the Areas to be redesignated to attainment.

Complete, quality-assured, and certified PM<sub>2.5</sub> air quality monitoring data, recorded in the EPA Air Quality System (AQS) database for 2007–2009, show that the Metropolitan Washington, DC-MD-VA and the Martinsburg-Hagerstown, WV-MD nonattainment areas attained the 1997 annual PM<sub>2.5</sub> NAAQS by their applicable attainment date.

On November 4, 2011 (76 FR 68378), EPA published a notice of proposed rulemaking (NPR) for the District of Columbia, Maryland, Virginia, and West Virginia. The NPR proposed to determine that the Metropolitan Washington, DC-MD-VA and the Martinsburg-Hagerstown, WV-MD nonattainment areas have attained the 1997 annual PM<sub>2.5</sub> NAAQS by the applicable attainment date of April 5, 2010. The proposal is based upon complete, quality-assured, and certified ambient air monitoring data for the 2007–2009 monitoring period and EPA's

determinations are in accordance with EPA's PM<sub>2.5</sub> Implementation Rule of April 25, 2007 (72 FR 20664). No comments were submitted on the NPR.

## II. What is EPA's analysis of the relevant air quality data?

EPA has reviewed the ambient air monitoring data for PM<sub>2.5</sub>, consistent with the requirements contained in 40 CFR part 50 and recorded in the data in the EPA AQS database for the Metropolitan Washington, DC-MD-VA and the Martinsburg-Hagerstown, WV-MD nonattainment areas for the monitoring period from 2007–2009. On the basis of that review, EPA is determining that the Areas attained the 1997 annual PM<sub>2.5</sub> NAAQS by the applicable April 5, 2010 attainment date.

Under EPA regulations at 40 CFR 50.7, the annual primary and secondary PM<sub>2.5</sub> standards are met when the annual arithmetic mean concentrations, as determined in accordance with 40 CFR part 50, appendix N, is less than or

equal to 15.0 µg/m<sup>3</sup>, at all relevant monitoring sites. The values calculated in accordance with 40 CFR part 50, appendix N, are referred to as design values, and these values are used to determine if an area is attaining the PM<sub>2.5</sub> NAAQS. According to the PM<sub>2.5</sub> implementation rule, the attainment date for these Areas is April 5, 2010 and the monitoring data from 2007–2009 is used to determine if the Areas attained by April 5, 2010.

Table 1 shows the PM<sub>2.5</sub> design values for each monitor in the Metropolitan Washington, DC-MD-VA and the Martinsburg-Hagerstown, WV-MD nonattainment areas, respectively, for the years 2007–2009. All 2007–2009 design values are below 15.0 µg/m<sup>3</sup>, and all monitors meet the data completeness requirements. Therefore, the Metropolitan Washington, DC-MD-VA and the Martinsburg-Hagerstown, WV-MD nonattainment areas attained the 1997 annual PM<sub>2.5</sub> NAAQS by their attainment date.

TABLE 1—1997 ANNUAL PM<sub>2.5</sub> DESIGN VALUES FOR THE METROPOLITAN WASHINGTON, DC-MD-VA AND MARTINSBURG-HAGERSTOWN, WV-MD AREAS \*

State	County	Monitor ID	2007 Annual mean	2008 Annual mean	2009 Annual mean	Certified design value 2007–2009 (µg/m <sup>3</sup> )
<b>Metropolitan Washington, DC-VA-MD</b>						
DC	District of Columbia .....	110010041	13.6	12.0	10.5	12.0
	District of Columbia .....	110010042	13.7	12.3	10.1	12.1
	District of Columbia .....	110010043	13.0	11.6	10.2	11.6
VA	Alexandria .....	No monitor				
	Arlington .....	510130020	13.8	12.0	10.1	11.9
	Fairfax .....	510590030	12.5	11.1	9.8	11.1
	Fairfax County .....	510591005	13.3	11.2	9.5	11.3
	Fairfax .....	510595001	13.5	11.8	9.7	11.7
	Falls Church .....	No monitor				
	Loudon .....	511071005	12.8	11.5	9.2	11.2
	Manassas .....	No monitor				
	Manassas Park .....	No monitor				
MD	Charles .....	No monitor				
	Frederick .....	No monitor				
	Montgomery .....	240313001	11.7	10.8	9.4	10.7
	Prince Georges .....	240330025	14.1	12.4	10.7	12.4
	Prince Georges .....	240330030	11.8	10.9	8.7	10.5
	Prince Georges .....	240338003	12.4	11.2	8.8	10.8
<b>Martinsburg-Hagerstown, WV-MD</b>						
WV	Berkley .....	240430009	12.9	11.8	9.7	11.5
MD	Washington .....	540030003	15.6	14.2	12.1	14.0

\* The data presented in Table 1 are available at <http://www.epa.gov/air/airtrends/values.html>.

## III. Final Action

EPA is finalizing the determinations that the Metropolitan Washington, DC-MD-VA and the Martinsburg-Hagerstown, WV-MD nonattainment

areas have attained the 1997 annual PM<sub>2.5</sub> standard by the applicable attainment date (April 5, 2010). These actions meet the requirement pursuant to section 179(c) of the CAA for EPA to

make a determination as to whether the Areas attained the standard by the applicable attainment date of April 5, 2010.



Finalizing these actions does not constitute a redesignation of the Areas to attainment of the 1997 annual PM<sub>2.5</sub> NAAQS under section 107(d)(3) of the CAA. Further, finalizing these determinations does not involve approving maintenance plans for the Areas as required under section 175A of the CAA, nor does it find that the Areas have met all other requirements for redesignation. The designation status of the Metropolitan Washington, DC-MD-VA and the Martinsburg-Hagerstown, WV-MD areas remains nonattainment for the 1997 annual PM<sub>2.5</sub> NAAQS until such time as EPA determines that the Areas meet the CAA requirements for redesignation to attainment and EPA acts to redesignate the Metropolitan Washington, DC-MD-VA and the Martinsburg-Hagerstown, WV-MD nonattainment areas.

#### IV. Statutory and Executive Order Reviews

##### A. General Requirements

This action merely makes attainment determinations based on air quality data and does not impose any additional requirements. 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 March 12, 2012. 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 pertaining to the determinations of attainment for the Metropolitan Washington, DC-MD-VA and the Martinsburg-Hagerstown, WV-MD PM<sub>2.5</sub> nonattainment areas may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

##### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

Dated: December 27, 2011.

W.C. Early,

Acting Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

#### PART 52—[AMENDED]

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

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

##### Subpart J—District of Columbia

- 2. Section 52.475 is added to read as follows:

###### § 52.475 Determinations of attainment.

Based upon EPA’s review of the air quality data for the 3-year period 2007 to 2009, EPA determined that the Metropolitan Washington, District of Columbia-Maryland-Virginia (DC-MD-VA) fine particle (PM<sub>2.5</sub>) nonattainment area attained the 1997 annual PM<sub>2.5</sub> National Ambient Air Quality Standard (NAAQS) by the applicable attainment date of April 5, 2010. Therefore, EPA has met the requirement pursuant to CAA section 179(c) to determine, based on the area’s air quality as of the attainment date, whether the area attained the standard. EPA also determined that the Metropolitan Washington, DC-MD-VA nonattainment area is not subject to the consequences of failing to attain pursuant to section 179(d).

##### Subpart V—Maryland

- 2. Section 52.1082 is added to read as follows:

###### § 52.1082 Determinations of attainment.

(a) Based upon EPA’s review of the air quality data for the 3-year period 2007 to 2009, EPA determined that the Metropolitan Washington, District of Columbia-Maryland-Virginia (DC-MD-VA) fine particle (PM<sub>2.5</sub>) nonattainment area attained the 1997 annual PM<sub>2.5</sub> National Ambient Air Quality Standard (NAAQS) by the applicable attainment date of April 5, 2010. Therefore, EPA has met the requirement pursuant to CAA section 179(c) to determine, based on the area’s air quality as of the attainment date, whether the area attained the standard. EPA also determined that the Metropolitan Washington, DC-MD-VA nonattainment area is not subject to the consequences of failing to attain pursuant to section 179(d).

(b) Based upon EPA’s review of the air quality data for the 3-year period 2007 to 2009, EPA determined that the Martinsburg-Hagerstown, West Virginia-Maryland (WV-MD) fine particle (PM<sub>2.5</sub>)



nonattainment area attained the 1997 annual PM<sub>2.5</sub> National Ambient Air Quality Standard (NAAQS) by the applicable attainment date of April 5, 2010. Therefore, EPA has met the requirement pursuant to CAA section 179(c) to determine, based on the area's air quality as of the attainment date, whether the area attained the standard. EPA also determined that the Martinsburg-Hagerstown, WV-MD nonattainment area is not subject to the consequences of failing to attain pursuant to section 179(d).

#### Subpart VV—Virginia

■ 4. Section 52.2430 is added to read as follows:

##### § 52.2430 Determinations of attainment.

Based upon EPA's review of the air quality data for the 3-year period 2007 to 2009, EPA determined that the Metropolitan Washington, District of Columbia-Maryland-Virginia (DC-MD-VA) fine particle (PM<sub>2.5</sub>) nonattainment area attained the 1997 annual PM<sub>2.5</sub> National Ambient Air Quality Standard (NAAQS) by the applicable attainment date of April 5, 2010. Therefore, EPA has met the requirement pursuant to CAA section 179(c) to determine, based on the area's air quality as of the attainment date, whether the area attained the standard. EPA also determined that the Metropolitan Washington, DC-MD-VA PM<sub>2.5</sub> nonattainment area is not subject to the consequences of failing to attain pursuant to section 179(d).

#### Subpart XX—West Virginia

■ 5. Section 52.2527 is amended by adding paragraph (e) to read as follows:

##### § 52.2527 Determination of attainment.

\* \* \* \* \*

(e) Based upon EPA's review of the air quality data for the 3-year period 2007 to 2009, EPA determined that the Martinsburg-Hagerstown, West Virginia-Maryland (WV-MD) fine particle (PM<sub>2.5</sub>) nonattainment area attained the 1997 annual PM<sub>2.5</sub> National Ambient Air Quality Standard (NAAQS) by the applicable attainment date of April 5, 2010. Therefore, EPA has met the requirement pursuant to CAA section 179(c) to determine, based on the area's air quality as of the attainment date, whether the area attained the standard. EPA also determined that the Martinsburg-Hagerstown, WV-MD PM<sub>2.5</sub> nonattainment area is not subject to the consequences of failing to attain pursuant to section 179(d).

[FR Doc. 2012-141 Filed 1-9-12; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R10-OAR-2010-0917; FRL-9616-4]

### Approval and Promulgation of State Implementation Plans: Alaska

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

**ACTION:** Final rule.

**SUMMARY:** EPA is taking final action to approve revisions to the Alaska State Implementation Plan (SIP) relating to the motor vehicle inspection and maintenance program (I/M) for control of carbon monoxide (CO) in Anchorage. The State of Alaska (the State) submitted a September 29, 2010, SIP modification that would discontinue the I/M program in Anchorage as an active control measure in the SIP and shift it to a contingency measure. EPA is approving the submittal because it satisfies the requirements of the Clean Air Act (CAA or the Act).

**DATES:** This action is effective on February 9, 2012.

**ADDRESSES:** EPA has established a docket for this action under Docket Identification No. EPA-R10-OAR-2010-0917. All documents in the docket are listed on the <http://www.regulations.gov> Web site. Although listed in the index, some information may not be publicly available, *i.e.*, Confidential Business Information 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 <http://www.regulations.gov> or in hard copy at EPA Region 10, Office of Air, Waste, and Toxics, AWT-107, 1200 Sixth Avenue, Seattle, Washington 98101. EPA requests that you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Claudia Vergnani Vaupel, (206) 553-6121, or by email at [vaupel.claudia@epa.gov](mailto:vaupel.claudia@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document whenever "we," "us," or "our" is used, we mean the EPA. Information is organized as follows:

## Table of Contents

- I. What is the background for this final action?
- II. What is our response to comments received on the notice of proposed rulemaking?
- III. What action is EPA taking?
- IV. Statutory and Executive Order Reviews

### I. What is the background for this final action?

The I/M program is a CO control measure in the Anchorage CO maintenance plan that was Federally approved on June 23, 2004 (69 FR 34935). The State of Alaska submitted a September 29, 2010, SIP modification discontinuing the I/M program in Anchorage as an active control measure in the SIP and shifting it to a contingency measure. EPA is approving the 2010 submittal because it satisfies the requirements of the CAA.

In accordance with the CAA and EPA redesignation guidance, states may adjust control strategies in the maintenance plan as long as they can demonstrate that the revision will not interfere with attainment or maintenance of the National Ambient Air Quality Standards (NAAQS), or any other CAA requirements. See CAA sections 175A and 110(l). However, section 175A(d) of the CAA requires that contingency measures in the maintenance plan include all measures in the SIP for the area before that area was redesignated to attainment.

The SIP revision submitted by Alaska included a technical analysis using EPA approved models and methods to demonstrate that the Anchorage area would continue to maintain the CO standard without the I/M program in place and that the revision would not interfere with attainment and maintenance of the other NAAQS. The submittal also documented that Anchorage will retain the legal authority necessary to implement the I/M program as a contingency measure.

On September 7, 2011, EPA proposed to approve the State's submittal as meeting the requirements of the Act (76 FR 55325). For a more detailed discussion of the background of this rulemaking, please see EPA's notice of proposed approval. In this final action, EPA is approving the SIP modifications to the Anchorage CO maintenance plan as originally proposed in EPA's notice of proposed rulemaking.

### II. What is our response to comments received on the notice of proposed rulemaking?

The public comment period for EPA's proposal to approve Alaska's request closed on October 7, 2011. EPA received