

the contracting officer. The address of the SDR Official is: Room 4130 (Attn: SDR Official), United States Postal Service Headquarters, 475 L'Enfant Plaza, SW., Washington, DC 20260-4130. e-mail Address: *SDROfficial@usps.gov*. Fax Number: (202) 268-0075.

(d) *Lodging timeframes.*

Disagreements under § 601.107 or contests of decisions under § 601.105 must be lodged with the SDR Official within the following timeframes:

(1) Disagreements under § 601.107 not resolved with the contracting officer must be lodged with the SDR Official within 20 days after they were lodged with the contracting officer (unless ADR had been used to attempt to resolve them);

(2) Disagreements under § 601.107 for which ADR had been agreed to be used must be lodged with the SDR Official within 10 days after the supplier knew or was informed by the contracting officer or otherwise that the matter was not resolved;

(3) Where a supplier is dissatisfied with the contracting officer's resolution of a disagreement under § 601.107, the supplier must lodge the disagreement with the SDR Official within 10 days after the supplier first receives notification of the contracting officer's resolution; and

(4) Contests of decisions under § 601.105 to decline to accept or consider proposals must be lodged with the SDR Official within 10 days of the supplier's receipt of the written notice explaining the decision.

(5) The SDR Official may grant an extension of time to lodge a disagreement under § 601.107 or contest of decision under § 601.105 or to provide supporting information when warranted. Any request for an extension must set forth the reasons for the request, be made in writing, and be delivered to the SDR Official on or before the time to lodge a disagreement lapses.

(e) *Disagreement decision process.*

The SDR Official will promptly provide a copy of a disagreement to the contracting officer, who will promptly notify other interested parties. The SDR Official will consider a disagreement and any response by other interested parties and appropriate Postal Service officials within a time frame established by the SDR Official. The SDR Official may also meet individually or jointly with the person or organization lodging the disagreement, other interested parties, and/or Postal Service officials, and may undertake other activities in order to obtain materials, information, or advice that may help to resolve the

disagreement. The person or organization lodging the disagreement, other interested parties, or Postal Service officials must promptly provide all relevant, nonprivileged materials and other information requested by the SDR Official. If a submission contains trade secrets or other confidential information, it should be accompanied by a copy of the submission from which the confidential matter has been redacted. The SDR Official will determine whether any redactions are appropriate and will be solely responsible for determining the treatment of any redacted materials. After obtaining such information, materials, and advice as may be needed, the SDR Official will promptly issue a written decision resolving the disagreement and will deliver the decision to the person or organization lodging the disagreement, other interested parties, and appropriate Postal Service officials. When resolving a disagreement raised under § 601.107, the SDR Official may grant remedies including, but not limited to, the following:

(1) Directing the contracting officer to revise the solicitation or to issue a new solicitation;

(2) Directing the contracting officer to recompile the requirement;

(3) Directing the contracting officer to reevaluate the award on the basis of current proposals and the evaluation factors contained in the solicitation; and

(4) Directing the contracting officer to terminate the contract or to refrain from exercising options under the contract.

(f) *Guidance.* The SDR Official will be guided by the regulations contained in this part and all applicable public laws enacted by Congress. Non-Postal Service procurement rules or regulations and revoked Postal Service regulations will not apply or be taken into account. Failure of any party to provide requested information may be taken into account by the SDR Official in the decision.

(g) *Final resolution by the SDR Official and final contract award of the Postal Service.* A resolution by the SDR Official will be final and binding. If the SDR Official's final resolution affirms the original contract award of the contracting officer, the contracting officer's original contract award becomes the Postal Service's final contract award, and may be subject to judicial review as described in paragraph (h) of this section. If the SDR Official's final resolution directs that the Postal Service terminate the contract award and issue a new solicitation, recompile the requirement, or reevaluate the current award, the

contracting officer shall implement promptly the SDR Official's final resolution. However, any contract award made by the contracting officer after a resolicitation, recompetition, or reevaluation directed by the SDR Official is not a final contract award of the Postal Service that may be subject to judicial review unless and until disagreements concerning that contract award have been lodged and resolved with finality by the SDR Official.

(h) *Judicial review.* The Postal Service's final contract award, as described in paragraph § 601.108(g), may be appealed to a Federal court with jurisdiction based only upon an alleged violation of the regulations contained in this part or an applicable public law enacted by Congress. The party lodging the disagreement may seek review of the Postal Service's final contract award only after the mandatory administrative remedies provided under § 601.107 and § 601.108 have been exhausted.

(i) *Resolution timeframe.* It is intended that this procedure generally will resolve disagreements under § 601.107 or contests of decisions under § 601.105 within approximately 30 days after receipt by the SDR Official. The time may be shortened or lengthened depending on the complexity of the issues and other relevant considerations.

**Stanley F. Mires,**

*Chief Counsel, Legislative.*

[FR Doc. 2010-385 Filed 1-11-10; 8:45 am]

**BILLING CODE 7710-12-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Parts 52 and 81

[Docket: EPA-R02-OAR-2009-0508; FRL-9091-4]

### Approval and Promulgation of Implementation Plans; Puerto Rico; Guaynabo PM<sub>10</sub> Limited Maintenance Plan and Redesignation Request

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

**ACTION:** Final rule.

**SUMMARY:** EPA is approving the Limited Maintenance Plan for the Municipality of Guaynabo nonattainment area in Puerto Rico and the request by the Commonwealth of Puerto Rico to redesignate the area from nonattainment to attainment for the National Ambient Air Quality Standards for particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM<sub>10</sub>). On March 31, 2009,

the Commonwealth of Puerto Rico submitted a Limited Maintenance Plan for the Guaynabo nonattainment area for approval and concurrently requested that EPA redesignate the Guaynabo nonattainment area to attainment for PM<sub>10</sub>.

**DATES:** *Effective Date:* This rule is effective on *February 11, 2010*.

**ADDRESSES:** EPA has established a docket for this action under Docket ID No. EPA-R02-OAR-2009-0508. All documents in the docket are listed on the *www.regulations.gov* web site. Although listed in the index, some information is not publicly available, e.g., 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* or in hard copy at the Environmental Protection Agency, Region 2 Office, Air Programs Branch, 290 Broadway, 25th Floor, New York, New York 10007-1866. This Docket Facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The Docket telephone number is 212-637-4249.

**FOR FURTHER INFORMATION CONTACT:** Kirk Wieber at telephone number: (212) 637-3381, e-mail address: *wieber.kirk@epa.gov*, fax number: (212) 637-3901, or the above EPA Region 2 address.

**SUPPLEMENTARY INFORMATION:**

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**I. What Action Is EPA Taking?**

The Environmental Protection Agency (EPA) is approving the Limited Maintenance Plan (LMP) for the Municipality of Guaynabo nonattainment area (Guaynabo NAA). EPA is concurrently redesignating the Guaynabo NAA to attainment for the National Ambient Air Quality Standards (NAAQS) for particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM<sub>10</sub>).

For additional details on EPA's analysis and findings, the reader is referred to the proposal published in the September 2, 2009 **Federal Register** (74 FR 45387) and a more detailed discussion is contained in the Technical Support Document which is available on line at *www.regulations.gov*, Docket number EPA-R02-OAR-2009-0508.

**II. What Is the Background for EPA's Action?**

As required by the Clean Air Act (Act), in 1987 the EPA revised the particulate matter NAAQS from total suspended particles to PM<sub>10</sub>. The standard was changed to better protect public health and the environment.

The Act, as amended in 1990, required that all areas that have measured a violation of the NAAQS for PM<sub>10</sub> before January 1, 1989 be designated nonattainment. On November 15, 1990 by operation of law, the Municipality of Guaynabo in Puerto Rico was designated nonattainment for PM<sub>10</sub> and classified as moderate based on violations measured in 1987.

On November 14, 1993 the Puerto Rico Environmental Quality Board (PREQB) submitted to EPA a State Implementation Plan (SIP) revision which consisted of a PM<sub>10</sub> SIP for the Municipality of Guaynabo. The Guaynabo PM<sub>10</sub> SIP revision was reviewed and approved by EPA on May 31, 1995 (60 FR 28333) and became effective on June 30, 1995.

After completing the appropriate public notice and comment procedures, on March 31, 2009, the PREQB submitted to EPA a "Limited Maintenance Plan 24 Hour Particulate Matter (PM<sub>10</sub>) National Ambient Air Quality Standards and Redesignation Request for the Municipality of Guaynabo Moderate Nonattainment Area State Implementation Plan Revision." On September 2, 2009 (74 FR 45387), EPA proposed to approve the LMP for the Municipality of Guaynabo and the request by the Commonwealth of Puerto Rico to redesignate the area from nonattainment to attainment for PM<sub>10</sub>.

**III. What Comments Were Received?**

No comments were received in response to the September 2, 2009 proposal.

**IV. What Are the Requirements for Redesignation?**

*A. Clean Air Act Requirements for Redesignation of Nonattainment Areas*

Nonattainment areas can be redesignated to attainment after the area has measured air quality data showing

it has attained the NAAQS and when certain planning requirements are met. Section 107(d)(3)(E) of the Act, and the General Preamble for the implementation of Title I of the Act (General Preamble) provide the criteria for redesignation. See 57 FR 13498 (April 16, 1992). These criteria are further clarified in a policy and guidance memorandum from John Calcagni, Director, Air Quality Management Division, EPA Office of Air Quality Planning and Standards dated September 4, 1992, "Procedures for Processing Requests to Redesignate Areas to Attainment". The criteria for redesignation are: (1) The Administrator has determined that the area has attained the applicable NAAQS; (2) the Administrator has fully approved the applicable SIP for the area under section 110(k) of the Act; (3) the state containing the area has met all requirements applicable to the area under section 110 and part D of the Act; (4) the Administrator has determined that the improvement in air quality is due to permanent and enforceable reductions in emissions; and (5) the Administrator has fully approved a maintenance plan for the area as meeting the requirements of section 175A of the Act.

*B. The Limited Maintenance Plan (LMP) Option for PM<sub>10</sub> Nonattainment Areas*

On August 9, 2001, EPA issued guidance on streamlined maintenance plan provisions for certain moderate PM<sub>10</sub> nonattainment areas seeking redesignation to attainment (Memo from Lydia Wegman, Director, Air Quality Standards and Strategies Division, entitled "Limited Maintenance Plan Option for Moderate PM<sub>10</sub> Nonattainment Areas,") referred to as the LMP option memo. The LMP option memo contains a statistical demonstration that areas meeting certain air quality criteria will, with a high degree of probability, maintain the standard 10 years into the future. It follows that future year emission inventories for these areas, and some of the standard analyses to determine transportation conformity with the SIP, are no longer necessary. To qualify for the LMP option: (1) The area should have attained the PM<sub>10</sub> NAAQS; (2) the average annual PM<sub>10</sub> design value for the area, based upon the most recent 5 years of air quality data at all monitors in the area, should be at or below 40 micrograms per cubic meter (µg/m<sup>3</sup>); and (3) the 24 hour design value should be at or below 98 µg/m<sup>3</sup>. If an area cannot meet this test, it may still be able to qualify for the LMP option if the average design value for the site is less

than the site-specific critical design values. In addition, the area should expect only limited growth in on-road motor vehicle PM<sub>10</sub> emissions (including fugitive dust) and should have passed a motor vehicle regional emissions analysis test. The LMP option memo also identifies core provisions that must be included in the LMP. These provisions include an attainment year emissions inventory, assurance of continued operation of an EPA-approved air quality monitoring network, and contingency provisions.

### C. Conformity Under the Limited Maintenance Plan Option

The transportation conformity rule and the general conformity rule (40 CFR part 93; also see 40 CFR part 51) apply to nonattainment areas and maintenance areas covered by an approved maintenance plan. Under either conformity rule, an acceptable method of demonstrating that a federal action conforms to the applicable SIP is to demonstrate that expected emissions from the planned action are consistent with the emissions budget for the area. While EPA's LMP option does not exempt an area from the need to affirm conformity, it explains that the area may demonstrate conformity without submitting an emissions budget. Under the LMP option, emissions budgets are treated as essentially not constraining for the length of the maintenance period because it is unreasonable to expect that the qualifying areas would experience so much growth in that period that a violation of the PM<sub>10</sub> NAAQS would result. For transportation conformity purposes, EPA would conclude that emissions in these areas need not be capped for the maintenance period and therefore a regional emissions analysis would not be required. Similarly, Federal actions subject to the general conformity rule could be considered to satisfy the "budget test" specified in 40 CFR 93.158(a)(5)(i)(A) as these budgets also are essentially considered to be unlimited.

### V. What Are EPA's Conclusions?

EPA has determined that the PM<sub>10</sub> Limited Maintenance Plan submitted by the PREQB on March 31, 2009 for the Municipality of Guaynabo meets all Clean Air Act provisions and EPA policy and guidance, including the criteria outlined in EPA's LMP option memo. Therefore, EPA is approving the PM<sub>10</sub> Limited Maintenance Plan for the Municipality of Guaynabo and all of its components as they were submitted by PREQB on March 31, 2009. Specifically, EPA is approving the 2002 PM<sub>10</sub> attainment emissions inventory,

attainment plan, maintenance demonstration, contingency measures, monitoring network, transportation conformity analysis and revisions to Rules 102 and 423 of the Puerto Rico Regulation for the Control of Atmospheric Pollution.

EPA is also approving the redesignation request for the Municipality of Guaynabo submitted by the PREQB on March 31, 2009 based on EPA's determination that the supporting documentation for redesignation satisfies all Clean Air Act requirements and EPA's policy and guidance, including the criteria outlined in EPA's redesignation guidance memorandum.

### VI. Statutory and Executive Order Reviews

Under the Clean Air Act, 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 Clean Air Act. 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 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 Clean Air Act; 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.

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).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by March 15, 2010. 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 may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

### List of Subjects

#### 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter.

#### 40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

Dated: November 20, 2009.  
**George Pavlou,**  
*Acting Regional Administrator, Region 2.*  
 ■ Chapter I, title 40 of the Code of Federal Regulations 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 BBB—Puerto Rico**

■ 2. Section 52.2720 is amended by adding new paragraph (c)(37) to read as follows:

**§ 52.2720 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

(37) On March 31, 2009, the Puerto Rico Environmental Quality Board

submitted a Particulate Matter (PM<sub>10</sub>) Limited Maintenance Plan and requested the redesignation of the Municipality of Guaynabo PM<sub>10</sub> Nonattainment area to attainment for PM<sub>10</sub>. EPA approves Puerto Rico's Limited Maintenance Plan including the 2002 PM<sub>10</sub> attainment emissions inventory, attainment plan, maintenance demonstration, contingency measures, monitoring network, transportation conformity analysis and revisions to Rules 102 and 423 of the Puerto Rico Regulation for the Control of Atmospheric Pollution. On July 15, 2009, the Puerto Rico Environmental Quality Board submitted the official copy of the adopted revisions to Rules 102 and 423.

(i) Limited Maintenance Plan 24-Hour PM<sub>10</sub> National Ambient Air Quality Standards (NAAQS) for the Municipality of Guaynabo Moderate

Nonattainment Area which includes amendments to Rules 102 and 423 of the Regulation for the Control of Atmospheric Pollution, approved by the Puerto Rico Environmental Quality Board March 5, 2009; filed with the Secretary of State April 28, 2009; effective May 28, 2009.

(A) Rule 102 Definitions, Guaynabo PM<sub>10</sub> Maintenance Area; filed with the Secretary of State April 28, 2009; effective May 28, 2009.

(B) Rule 423 Limitations for the Guaynabo PM<sub>10</sub> Maintenance Area; filed with the Secretary of State April 28, 2009; effective May 28, 2009.

■ 3. Section 52.2723, the table is amended by revising the entries for Rule 102 and Rule 423 to read as follows:

**§ 52.2723 EPA-approved Puerto Rico regulations.**

REGULATION FOR THE CONTROL OF ATMOSPHERIC POLLUTION

Puerto Rico regulations	Commonwealth effective date	EPA approval date	Comments
* * * * *	* * * * *	* * * * *	* * * * *
Rule 102, Definitions .....	5/28/09	1/12/10, [Insert FR page citation].	*
* * * * *	* * * * *	* * * * *	* * * * *
Rule 423, Limitations for the Guaynabo PM <sub>10</sub> Maintenance Area.	5/28/09	1/12/10, [insert FR page citation].	*
* * * * *	* * * * *	* * * * *	* * * * *

**PART 81—[AMENDED]**

■ 4. The authority citation for part 81 continues to read as follows:

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

■ 5. In § 81.355, the table entitled “Puerto Rico—PM-10” is amended by removing the entry for “Guaynabo County” and adding in its place the

entry “Municipality of Guaynabo” to read as follows:

**§ 81.355 Puerto Rico.**

\* \* \* \* \*

PUERTO RICO—PM<sub>10</sub>

Designated area	Designation		Classification	
	Date	Type	Date	Type
Municipality of Guaynabo .....	1/12/10	Attainment.		
* * * * *	* * * * *	* * * * *	* * * * *	* * * * *

\* \* \* \* \*  
 [FR Doc. 2010-258 Filed 1-11-10; 8:45 am]  
 BILLING CODE 6560-50-P

**FEDERAL COMMUNICATIONS COMMISSION**

**47 CFR Part 73**

[DA 09-2647; MB Docket No. 09-122; RM-11544]

**Television Broadcasting Services; Bangor, ME**

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** The Commission has before it a petition for rulemaking filed by Community Broadcasting Service, the licensee of WABI-TV, channel 19, Bangor, Maine, requesting the substitution of channel 13 for channel 19 at Bangor.

**DATES:** This rule is effective February 11, 2010.