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[FR Doc. E8-19373 Filed 8-22-08; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R03-OAR-2008-0257; FRL-8707-3]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Determination of Attainment of Fine Particle Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is determining that the Harrisburg-Lebanon-Carlisle, Pennsylvania nonattainment area for the 1997 fine particle (PM_{2.5}) National Ambient Air Quality Standard (NAAQS) has attained the 1997 PM_{2.5} NAAQS.

DATES: *Effective Date:* This final rule is effective on August 25, 2008.

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA-R03-OAR-2008-0257. All documents in the docket are listed in the <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 <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. Copies of the State submittal are available at the Pennsylvania Department of Environmental Protection, Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Rose Quinto, (215) 814-2182, or by e-mail at quinto.rose@epa.gov.

SUPPLEMENTARY INFORMATION:

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

Organization of this document. The following outline is provided to aid in locating information in this preamble.

- I. What Action Is EPA Taking?
- II. What Is the Effect of This Action?
- III. When Is This Action Effective?
- IV. Final Action
- V. Statutory and Executive Order Reviews

I. What Action Is EPA Taking?

EPA is determining that the Harrisburg-Lebanon-Carlisle, Pennsylvania nonattainment area (Harrisburg Nonattainment Area) for the 1997 PM_{2.5} NAAQS has attained the 1997 PM_{2.5} NAAQS. This determination is based upon quality assured, quality controlled and certified ambient air monitoring data that show the area has monitored attainment of the 1997 PM_{2.5} NAAQS since the 2004–2006 monitoring period, and monitoring data that continue to show attainment of the 1997 PM_{2.5} NAAQS based on the 2005–2007 data. In addition, quality controlled and quality assured monitoring data submitted during the calendar year 2008, which are available in the EPA AQS database, but not yet certified, show this area continues to attain the 1997 PM_{2.5} NAAQS.

Other specific requirements of the determination and the rationale for EPA’s proposed action are explained in the notice of proposed rulemaking (NPR) published on June 13, 2008 (73 FR 33755) and will not be restated here. No public comments were received in response to the NPR.

II. What Is the Effect of This Action?

This final action, in accordance with 40 CFR 51.1004(c), suspends the requirements for this area to submit attainment demonstrations and associated reasonably available control measures, reasonable further progress plans, contingency measures, and other planning state implementation plans (SIPs) related to attainment of the 1997 PM_{2.5} NAAQS for so long as the area continues to attain the 1997 PM_{2.5} NAAQS.

III. When Is This Action Effective?

EPA finds that there is good cause for this approval to become effective on the date of publication of this action in the **Federal Register**, because a delayed effective date is unnecessary due to the nature of the approval. The expedited effective date for this action is authorized under both 5 U.S.C. 553(d)(1), which provides that rule actions may become effective less than

30 days after publication if the rule “grants or recognizes an exemption or relieves a restriction” and 5 U.S.C. 553(d)(3), which allows an effective date less than 30 days after publication “as otherwise provided by the agency for good cause found and published with the rule.” As noted above, this determination of attainment suspends the requirements for the Harrisburg nonattainment area to submit an attainment demonstration and associated reasonably available measures, a reasonable further progress plan, contingency measures, and any other planning SIPs related to attainment of the standard for so long as the area continues to attain the 1997 PM_{2.5} NAAQS. The suspension of these requirements is sufficient reason to allow an expedited effective date of this rule under 5 U.S.C. 553(d)(1). In addition, the Harrisburg nonattainment area’s suspension from these requirements provide good cause to make this rule effective on the date of publication of this action in the **Federal Register**, pursuant to 5 U.S.C. 553(d)(3). The purpose of the 30-day waiting period prescribed in 5 U.S.C. 553(d) is to give affected parties a reasonable time to adjust their behavior and prepare before the final rule takes effect. Where, as here, the final rule suspends requirements rather than imposing obligations, affected parties, such as the Commonwealth of Pennsylvania, do not need time to adjust and prepare before the rule takes effect.

IV. Final Action

EPA is determining that the Harrisburg nonattainment area for the 1997 PM_{2.5} NAAQS has attained the 1997 PM_{2.5} NAAQS. This determination is based upon quality assured, quality controlled, and certified ambient air monitoring data that show that the area has monitored attainment of the 1997 PM_{2.5} NAAQS since the 2004–2006 monitoring period, and continues to monitor attainment of the standard based on the 2005–2007 data. This final action, in accordance with 40 CFR 51.1004(c), will suspend the requirements for this area to submit attainment demonstrations and associated reasonably available control measures, reasonable further progress plans, contingency measures, and other planning SIPs related to attainment of the 1997 PM_{2.5} NAAQS for so long as the area continues to attain the 1997 PM_{2.5} NAAQS.

V. Statutory and Executive Order Reviews

A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a “significant regulatory action” and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is not subject to Executive Order 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” (66 FR 28355, May 22, 2001). This action makes a determination based on air quality data, and would, if finalized, result in the suspension of certain Federal requirements. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule makes a determination based on air quality data, and results in the suspension of certain Federal requirements, it 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).

This rule also does not have tribal applications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely makes a determination based on air quality data and results in the suspension of certain Federal requirements, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. This rule also is not subject to Executive Order 13045 “Protection of Children from Environmental Health Risks” (62 FR 19885, April 23, 1997) because it determines that air quality in the affected area is meeting Federal standards.

The requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply because it would

be inconsistent with applicable law for EPA, when determining the attainment status of an area, to use voluntary consensus standards in place of promulgated air quality standards and monitoring procedures otherwise satisfying the provisions of the CAA.

This rule does not impose an information collection burden under the provisions of the Paper Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Under Executive Order 12898, EPA finds that this rule involves a determination of attainment based on air quality data and will not have disproportionately high and adverse human health or environmental effects on any communities in the area, including minority and low-income communities.

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 October 24, 2008. 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 Harrisburg nonattainment area clean data determination, 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, Particulate matter.

Dated: August 12, 2008

W.T. Wisniewski,

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 NN—Pennsylvania

■ 2. Section 52.2059 is amended by adding paragraph (c) to read as follows:

§ 52.2059 Control strategy: Particulate matter.

* * * * *

(c) *Determination of Attainment.* EPA has determined, as of August 25, 2008, the Harrisburg-Lebanon-Carlisle, Pennsylvania nonattainment area for the 1997 PM_{2.5} NAAQS has attained the 1997 PM_{2.5} NAAQS. This determination, in accordance with 40 CFR 52.1004(c), suspends the requirements for this area to submit an attainment demonstration and associated reasonably available measures, a reasonable further progress plan, contingency measures, and other planning SIPs related to attainment of the standard for as long as the area continues to attain the 1997 PM_{2.5} NAAQS.

[FR Doc. E8–19421 Filed 8–22–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 70

[EPA–R07–OAR–2008–0403; FRL–8707–7]

Approval and Promulgation of Implementation Plans and Operating Permits Program; State of Iowa

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a revision to the Iowa State Implementation Plan (SIP) and Operating Permits Program submitted by the state of Iowa for the purpose of modifying and clarifying requirements for certain types of grain elevators. Specifically, the new rule revises the SIP to add special requirements for grain elevators, and the associated chapters for definitions and emission standards will be revised accordingly. The Iowa Department of Natural Resources (IDNR) is requiring that owners or operators of grain elevators apply best management