

regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

### Comments and Requests for Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written (a signed original and 8 copies) or electronic comments that are submitted timely to the IRS. The IRS and Treasury Department request comments on the clarity of the proposed rules and how they can be made easier to understand. All comments will be available for public inspection and copying. A public hearing will be scheduled if requested in writing by any person that timely submits written comments. If a public hearing is scheduled, notice of the date, time, and place for the public hearing will be published in the **Federal Register**.

### Drafting Information

The principal author of these regulations is Theresa M. Kolish, Office of Associate Chief Counsel (Corporate). However, other personnel from the IRS and Treasury Department participated in their development.

### List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

### Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

#### PART 1—INCOME TAXES

**Paragraph 1.** The authority citation for part 1 is amended by adding the following entry in numerical order to read as follows:

**Authority:** 26 U.S.C. 7805 \* \* \*  
Section 1.108-7 also issued under 26 U.S.C. 108. \* \* \*

**Par. 2.** Section 1.108-7 is added to read as follows:

#### § 1.108-7 Reduction of attributes.

[The text of the proposed § 1.108-7 is the same as the text for § 1.108-7T published elsewhere in this issue of the **Federal Register**].

**Par. 3.** Section 1.1017-1 is amended by adding paragraph (b)(4) to read as follows:

#### § 1.1017-1 Basis reductions following a discharge of indebtedness.

\* \* \* \* \*

(b) \* \* \*

(4) [The text of the proposed § 1.1017-1(b)(4) is the same as the text for § 1.1017-1T(b)(4) published elsewhere in this issue of the **Federal Register**].

\* \* \* \* \*

**Robert E. Wenzel,**

*Deputy Commissioner for Services and Enforcement.*

[FR Doc. 03-18146 Filed 7-17-03; 8:45 am]

**BILLING CODE 4830-01-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[GA-62, GA-64-200314; FRL-7530-2]

### Approval and Promulgation of Implementation Plans; Georgia: Approval of Revisions to the State Implementation Plan

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

**ACTION:** Proposed rule.

**SUMMARY:** On January 31, 2003, the Georgia Environmental Protection Division (GAEPD) submitted revisions to the "Gasoline Marketing Rule," provided in Georgia's Rules for Air Quality Control, Chapter 391-3-1-.02(2)(bbb) (the Georgia Fuel Rule) to EPA. The revisions, which are in response to concerns regarding adequate gasoline supply, address the Georgia Fuel Rule's gasoline sulfur requirements, which would have been effective April 1, 2003, and associated reporting and testing requirements. On June 19, 2003, the GAEPD submitted a subsequent revision to the Georgia Fuel Rule to amend the effective date for the gasoline sulfur requirements to September 16, 2003, from the effective date cited in the previous State rule revision. In this action, EPA is proposing to approve both of GAEPD's requests for a revision to the gasoline sulfur requirement for the period of April 1, 2003, through December 31, 2003.

**DATES:** Written comments must be received on or before August 18, 2003.

**ADDRESSES:** Comments may be submitted by mail to: Scott M. Martin, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960.

Comments may also be submitted electronically, or through hand delivery/courier. Please follow the detailed instructions described in [Part (I)(B)(1)(i) through (iii)] of the **SUPPLEMENTARY INFORMATION** section. **FOR FURTHER INFORMATION CONTACT:** Scott M. Martin, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. The telephone number is (404) 562-9036. Mr. Martin can also be reached via electronic mail at [martin.scott@epa.gov](mailto:martin.scott@epa.gov).

### SUPPLEMENTARY INFORMATION:

#### I. General Information

##### A. How Can I Get Copies of This Document and Other Related Information?

1. The Regional Office has established an official public rulemaking file available for inspection at the Regional Office. EPA has established an official public rulemaking file for this action under GA-62, GA-64-200314. The official public file consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public rulemaking file does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public rulemaking file is the collection of materials that is available for public viewing at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. EPA requests that if at all possible, you contact the contact listed in the For Further Information Contact section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 9 to 3:30 excluding federal holidays.

2. Copies of the State submittal and EPA's technical support document are also available for public inspection during normal business hours, by appointment at the State Air Protection Branch, Georgia Environmental Protection Division, Georgia Department of Natural Resources, 4244 International Parkway, Suite 120, Atlanta, Georgia 30354, telephone (404) 363-7000.

3. Electronic Access. You may access this **Federal Register** document electronically through the Regulation.gov web site located at

<http://www.regulations.gov> where you can find, review, and submit comments on Federal rules that have been published in the **Federal Register**, the Government's legal newspaper, and are open for comment.

For public commenters, it is important to note that EPA's policy is that public comments, whether submitted electronically or on paper, will be made available for public viewing at the EPA Regional Office, as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in the official public rulemaking file. The entire printed comment, including the copyrighted material, will be available at the Regional Office for public inspection.

#### *B. How and to Whom Do I Submit Comments?*

You may submit comments electronically, by mail, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate rulemaking identification number by including the text "Public comment on proposed rulemaking" "GA-62, GA-64-200314" in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked "late." EPA is not required to consider these late comments.

1. *Electronically.* If you submit an electronic comment as prescribed below, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also include this contact information on the outside of any disk or CD ROM you submit, and in any cover letter accompanying the disk or CD ROM. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. EPA's policy is that EPA will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket. If EPA cannot read your comment due to technical difficulties and cannot

contact you for clarification, EPA may not be able to consider your comment.

i. *E-mail.* Comments may be sent by electronic mail (e-mail) to [martin.scott@epa.gov](mailto:martin.scott@epa.gov). Please include the text "Public comment on proposed rulemaking" "GA-62, GA-64-200314" in the subject line. EPA's e-mail system is not an "anonymous access" system. If you send an e-mail comment directly without going through Regulations.gov, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket.

ii. *Regulation.gov.* Your use of Regulation.gov is an alternative method of submitting electronic comments to EPA. Go directly to Regulations.gov at <http://www.regulations.gov>, then select Environmental Protection Agency at the top of the page and use the go button. The list of current EPA actions available for comment will be listed. Please follow the online instructions for submitting comments. The system is an "anonymous access" system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

iii. *Disk or CD ROM.* You may submit comments on a disk or CD ROM that you mail to the mailing address identified in Section 2, directly below. These electronic submissions will be accepted in WordPerfect, Word or ASCII file format. Avoid the use of special characters and any form of encryption.

2. *By Mail.* Send your comments to: Scott M. Martin, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. Please include the text "Public comment on proposed rulemaking" "GA-60, GA-61-200332" in the subject line on the first page of your comment.

3. *By Hand Delivery or Courier.* Deliver your comments to: Scott M. Martin, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division 12th floor, U.S. Environmental Protection Agency Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 9 to 3:30 excluding federal holidays.

#### *C. How Should I Submit CBI to the Agency?*

Do not submit information that you consider to be CBI electronically to EPA. You may claim information that you submit to EPA as CBI by marking any part or all of that information as CBI (if you submit CBI on disk or CD ROM, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the official public regional rulemaking file. If you submit the copy that does not contain CBI on disk or CD ROM, mark the outside of the disk or CD ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public file and available for public inspection without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

#### *D. What Should I Consider as I Prepare My Comments for EPA?*

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at your estimate.
5. Provide specific examples to illustrate your concerns.
6. Offer alternatives.
7. Make sure to submit your comments by the comment period deadline identified.
8. To ensure proper receipt by EPA, identify the appropriate regional file/rulemaking identification number in the subject line on the first page of your response. It would also be helpful if you provided the name, date, and **Federal Register** citation related to your comments.

## **II. Background**

On October 28, 1999, the State of Georgia, through the GAEPD, submitted an attainment demonstration for the 1-

hour ozone national ambient air quality standard (NAAQS) for the Atlanta nonattainment area for inclusion into the Georgia state implementation plan (SIP). This submittal included a version of the low-sulfur/low-Reid Vapor Pressure (RVP) fuel regulations that was subsequently amended by the State, and that was submitted by the State to EPA in revised form in subsequent SIP revisions dated July 31, 2000, and August 21, 2001.

Additionally, on May 31, 2000, in support of its request for SIP approval of the State fuel regulations, GAEPD submitted a demonstration that, in accordance with section 211(c)(4)(C) of the Clean Air Act (CAA or the "Act") as amended in 1990, the fuel control is necessary to achieve the NAAQS implemented by the applicable SIP. On November 9, 2001, the GAEPD submitted an updated "necessity" demonstration which reflected the revised motor vehicle emissions budget, the request for an attainment date extension from 2003 to 2004, and the revised Partnership for a Smog Free Georgia emissions calculations. The extension for the attainment date from 2003 to 2004 resulted from a delay in implementation for the NO<sub>x</sub> SIP Call Rule (63 FR 57356). In the 2003 attainment demonstration, Georgia relied heavily on the benefits achieved through the NO<sub>x</sub> SIP Call measures. Originally, the Georgia Fuel Rule was developed with an attainment date of 2003 as a consideration. However, when the attainment date was extended to 2004, the GAEPD opted not to revise its Georgia Fuel Rule.

The Georgia "necessity" demonstration submittals contained data and analyses to support a finding under section 211(c)(4)(C) that the

State's low-sulfur and low-RVP requirements are necessary for the Atlanta nonattainment area to achieve the ozone NAAQS. On December 11, 2001 (66 FR 63982), EPA published a notice of proposed rulemaking (NPR) to approve the Georgia Fuel Rule into the SIP. That NPR provided a detailed description of this action and EPA's rationale for proposed approval. The public comment period for this action ended on January 25, 2002. No comments, adverse or otherwise, were received on EPA's proposal. EPA finalized this approval action on February 22, 2002 (67 FR 8200). The effective date for this Federal approval was March 25, 2002.

On January 31, 2003, the GAEPD submitted revisions to the Georgia Fuel Rule to EPA to revise the effective date for the 30 parts per million (ppm) sulfur requirement from April 1, 2003, to January 1, 2004. The revisions, made in response to concerns regarding adequate gasoline supply, also address associated reporting and testing requirements. On June 19, 2003, the GAEPD submitted a subsequent revision for the Georgia Fuel Rule to revise the effective date of the Georgia Fuel Rule 30 ppm sulfur requirement from January 1, 2004, to September 16, 2003.

*Clean Air Act Requirements*

The SIP submittal, including the rule revision for Georgia's low-sulfur/low-RVP fuel control program, meets the requirements outlined in section 110 and Part D of Title I of the CAA amendments and 40 CFR part 51 (Requirements for Preparation, Adoption and Submittal of Implementation Plans). The first revision to the rule was formally adopted by the GAEPD Board on January 29, 2003, and became State

effective on February 20, 2003. The second revision to the rule was formally adopted by the GAEPD Board on May 28, 2003, and became State effective on June 24, 2003.

These rule changes are within the scope of the "necessity" demonstration under section 211(c)(4)(C) of the Act because the changes do not affect the finding made at the time of the original SIP approval regarding the availability of non-fuel measures to bring about timely attainment. This fuel program, as currently modified, adds an intermediate level of sulfur control to a fuel program that now includes three levels of sulfur control instead of two. This additional level of sulfur control would not have affected the evaluation of potential non-fuel measures and their availability to achieve attainment as compared to the fuel program's contribution to the same attainment date.

**III. Analysis of State's Submittal**

On January 31, 2003, the GAEPD submitted revisions to the Georgia Fuel Rule to EPA. The purpose of these revisions is to address the Georgia Fuel Rule's 2003 gasoline sulfur requirements, beginning April 1, 2003, through December 31, 2003, in response to concerns regarding adequate gasoline supply, and to revise associated reporting and testing requirements. Subsequently, the GAEPD submitted further revisions to the fuel rule on June 19, 2003, to reflect the revised effective date of the sulfur content annual average of 30 ppm (by weight) and per-gallon cap of 150 ppm from January 1, 2004, to September 16, 2003.

The requirements and compliance dates associated with this rule revision are below:

Product	Producer or importer sampling	Effective date	Downstream sampling	Effective date
<b>April 1 through September 15, 2003</b>				
Sulfur quarterly average .....	90 ppm	April 1 .....	N/A	N/A.
Sulfur per gallon cap .....	200 ppm	April 1 .....	230 ppm	June 1.
RVP .....	7.0 psi	June 1 .....	7.3 psi	June 1–Sept 15.
<b>September 16, 2003 and beyond</b>				
Sulfur annual average .....	30 ppm	September 16, 2003 .....	N/A	N/A.
Sulfur per gallon cap .....	150 ppm	September 16, 2003 .....	230 ppm	(Thru March 31st).
			175 ppm	June 1.
Seasonal sulfur per gallon cap .....	80 ppm	June 1–Sept 15 .....	95 ppm	June 1–Sept 15.
RVP .....	7.0 psi	June 1–Sept. 15 .....	7.3 psi	June 1–Sept 15.

Additional revisions for this rule are described below:

Paragraph (iv) is being amended to clarify the beginning and ending dates,

June 1 through September 15, for the

seasonal sulfur control which becomes effective June 1, 2004.

Paragraph 4 is being amended to remove conflicting annual reporting language and to clarify the content and due date of quarterly reports required from each producer and importer.

Paragraph 5 (iii) is being amended to revise the terminal-level sampling requirements for 2003 and beyond for consistency with the above described changes.

EPA is proposing to approve these revisions to the Georgia Fuel Rule, as requested by the GAEPD, because these revisions meet the requirements of the CAA as amended in 1990. Starting September 16, 2003, the sulfur content requirements will revert back to the annual average of 30 ppm (by weight) and the per-gallon cap of 150 ppm. EPA approved an attainment demonstration for Atlanta with an attainment date for the 1-hour ozone NAAQS of November 15, 2004. However, due to a challenge to EPA's approval of the attainment demonstration for metro Atlanta before the United States 11th Circuit Court of Appeals, EPA's approval was vacated on June 16, 2003. Atlanta's attainment date has reverted to the previously applicable date of 1999. Under the CAA, EPA is required to make a finding as to whether Atlanta attained the 1-hour ozone NAAQS on November 15, 1999. If EPA finds that Atlanta did not attain the 1-hour standard in 1999, Atlanta will be reclassified to a severe nonattainment area by operation of law. As a severe area, Atlanta's attainment date will be as expeditiously as practicable but no later than November 15, 2005. It is unknown at this time if Atlanta's severe area attainment date will be November 15, 2004, or November 15, 2005, however, under either scenario these revisions will not interfere with the Atlanta area's ability to attain the 1-hour ozone NAAQS. This rule revision will not cause a delay for either a 2004 or 2005 attainment date since the original 30 ppm sulfur level will be in effect starting September 16, 2003, well before the November 15, 2004, or November 15, 2005, attainment date.

#### *Tier 2 Credit*

EPA notes that refineries producing low sulfur gasoline with sulfur levels below a refinery's baseline established under EPA's Tier 2 Gasoline Sulfur Control Program prior to the start of this program in 2004 may generate sulfur credits and/or allotments which can provide economic benefits to the refinery. These sulfur credits and allotments may be used to allow the refinery to produce gasoline with

slightly higher sulfur levels in future years, or they may be sold to other refineries. A refinery that meets the original April 1, 2003, requirement for supplying Georgia low sulfur gasoline may be eligible for more sulfur credits under EPA's Tier 2 Gasoline Sulfur Control Program than a refinery which meets the revised April 1, 2003, requirement for supplying Georgia low sulfur gasoline. Furthermore, such a refinery may also be eligible for sulfur allotments since allotments may be generated in 2003 by refineries that produce gasoline with an average sulfur level that is less than or equal to 60 ppm. For more information about EPA's Tier 2 Gasoline Sulfur Control Program, see EPA's rulemaking, Control of Air Pollution From New Motor Vehicles: Tier 2 Motor Vehicle Emissions Standards and Gasoline Sulfur Control Requirements, dated February 10, 2000, (65 FR 6698).

#### **IV. Proposed Action**

EPA is proposing to approve the revisions to the Georgia SIP described above because they are consistent with EPA guidance and the CAA, as amended in 1990. EPA acknowledges that some companies, notably BP/Amoco and Chevron, stated in commenting upon the Georgia rule change that they had made the necessary investments and were prepared to meet the earlier April 1, 2003, deadline for supplying complying fuel. For example, Chevron worked pro-actively with the State of Mississippi and EPA Region 4 to develop an expedited permitting schedule to allow the necessary changes to their Pascagoula, MS, refinery in a good faith effort to meet the original rule deadlines. Although quantitative estimates are not available, today's proposed action will inevitably to some degree disadvantage companies who made these investments with an eye to meeting the original deadline as opposed to those companies which delayed making the necessary investments. EPA commends these companies for their commitment to environmental protection and, in keeping with EPA's policy and practice of encouraging early reductions, will be looking for ways to provide incentives for companies who comply ahead of regulatory deadlines.

#### **V. Statutory and Executive Order Reviews**

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed 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

also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This proposed action merely proposes to approve state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed 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 proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it 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).

This proposed rule also does not have tribal implications 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). This action merely proposes to approve a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This proposed rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant, as stated in the previous paragraph.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission

that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272) do not apply. This proposed rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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

Environmental protection, Air pollution control, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

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

Dated: July 9, 2003.

**A. Stanley Meiburg,**

*Acting Regional Administrator, Region 4.*

[FR Doc. 03-18153 Filed 7-17-03; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Parts 52 and 81

[PA189-4300; FRL-7530-7]

#### Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Redesignation of the Liberty Borough PM<sub>10</sub> Nonattainment Area to Attainment and Approval of the Associated Maintenance Plan

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve a request from the Commonwealth of Pennsylvania to redesignate the Liberty Borough area of Allegheny County, Pennsylvania (the Liberty Borough area) from nonattainment to attainment for the national ambient air quality standard (NAAQS) for particulate matter with an aerodynamic diameter less than or equal to a nominal 10 microns (PM<sub>10</sub>). The EPA is also proposing to approve a maintenance plan for the Liberty Borough area. Both the redesignation and maintenance plan were submitted by the Pennsylvania Department of Environmental Protection (PADEP) on behalf of the Allegheny County Health Department (ACHD). Approval of the maintenance plan, as a revision to the Pennsylvania State Implementation Plan (SIP), would put a plan in place for maintaining the PM<sub>10</sub> standard for the next ten years in the Liberty Borough area. This action is

being taken in accordance with the Clean Air Act (CAA).

**DATES:** Comments must be received on or before August 18, 2003.

**ADDRESSES:** Comments may be submitted either by mail or electronically. Written comments should be mailed to Makeba A. Morris, Chief, Air Quality Planning Branch, Mailcode 3AP21 U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Electronic comments should be sent either to [morris.makeba@epa.gov](mailto:morris.makeba@epa.gov) or to <http://www.regulations.gov>, which is an alternative method for submitting electronic comments to EPA. To submit comments, please follow the detailed instructions described in part V of the Supplementary Information section. Copies of the documents relevant to this action are available 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; Pennsylvania Department of Environmental Protection, Bureau of Air Quality, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105; and Allegheny County Health Department, Bureau of Environmental Quality, Division of Air Quality, 301 39th Street, Pittsburgh, Pennsylvania 15201.

#### FOR FURTHER INFORMATION CONTACT:

Ruth E. Knapp, (215) 814-2191, or by e-mail at [knapp.ruth@epa.gov](mailto:knapp.ruth@epa.gov).

#### SUPPLEMENTARY INFORMATION:

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

#### Table of Contents

##### Introduction

- I. When Was This Area Designated Nonattainment for PM<sub>10</sub>?
- II. What Are the Geographic Boundaries of the PM<sub>10</sub> Nonattainment area?
- III. What Are the Criteria for Redesignation?
- IV. Does the Area Meet the Criteria for Redesignation?
  - A. The Data Shows Attainment of the PM<sub>10</sub> NAAQS in the Liberty Borough Area
  - B. There Is a Fully Approved SIP Under Section 110(k) of the CAA
    1. Section 110 Requirements
    2. Part D Requirements
      - a. Subparts 1 and 4 of part D—sections 172(c) and 189(a)
      - b. Subpart 1 of part D—section 176 Conformity Provisions
    - C. The Improvement in—Air Quality Is Due to Permanent and Enforceable Measures
    - D. The Maintenance Plan Satisfies Section 175A
      1. Maintenance Plan Requirements
        - a. Emissions Inventory

- b. Maintenance Demonstration
- c. Commitment to Continue Monitoring Air Quality
- d. Verification of Continued Attainment
- e. Contingency Plan
2. Commitment to Submit Subsequent Maintenance Plan Revisions
- E. The Submittal Meets the Applicable Requirements of Section 110 and Part D
- V. Proposed Action
- VI. Statutory and Executive Order Reviews

## Introduction

Under the CAA, EPA may redesignate nonattainment areas to attainment if sufficient data are available to warrant such changes and the area meets the criteria contained in section 107(d)(3) (E). This includes full approval of a maintenance plan for the area. EPA may approve a maintenance plan which meets the requirements of section 175A. On October 28, 2002, the PADEP, on behalf of the ACHD, submitted a redesignation request and maintenance plan for the Liberty Borough moderate PM<sub>10</sub> nonattainment area. EPA is proposing to redesignate the Liberty Borough area from nonattainment to attainment of the PM<sub>10</sub> NAAQS. We are also proposing to approve the maintenance plan required under section 175A maintenance plan. Once approved the maintenance plan will become part of the Pennsylvania SIP for this area.

### I. When Was This Area Designated Nonattainment for PM<sub>10</sub>?

On November 15, 1990, the CAA amendments were enacted. Pursuant to section 107(d)(4)(B), the Liberty Borough area in Allegheny County, Pennsylvania was designated nonattainment by operation of law. The nonattainment designation and classification as a moderate PM<sub>10</sub> area was codified in 40 CFR part 81 on November 6, 1991 (56 FR 56694).

### II. What Are the Geographic Boundaries of the PM<sub>10</sub> Nonattainment Area?

The Liberty Borough nonattainment area is comprised of the municipalities of Liberty Borough, the Borough of Lincoln, Port Vue Borough, the Borough of Glassport and the City of Clairton.

### III. What Are the Criteria for Redesignation?

Section 107(d)(3)(E) of the CAA specifies five requirements that must be met to redesignate an area from nonattainment to attainment as follows:

- (1) The area has attained the applicable NAAQS;
- (2) The area has a fully approved SIP under section 110(k);