

## Public Comment Procedures

Under the provisions of 30 CFR 732.17(h), we are seeking your comments on whether the submission satisfies the applicable program approval criteria of 30 CFR 732.15. If we approve the amendment, it will become part of the West Virginia program.

### Public Availability of Comments

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you may ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. We cannot ensure that comments received after the close of the comment period (*see* **DATES**) or sent to an address other than those listed above (*see* **ADDRESSES**) will be included in the docket for this rulemaking and considered.

### Electronic or Written Comments

If you submit written comments, they should be specific, confined to issues pertinent to the proposed regulations, and explain the reason for any recommended change(s). We would appreciate all comments relating to this specific issue, but those most useful and likely to influence decisions on the final rule will be those that either involve personal experience or include citations to and analysis of the Surface Mining Control and Reclamation Act of 1977, its legislative history, its implementing regulations, case law, other State or Federal laws and regulations, data, technical literature, or other relevant publications. Specifically, we are asking for comments solely on the State's proposed program amendments at subsection 7.8 to change the term "bio-oil" to "bio-fuel."

### List of Subjects in 30 CFR Part 948

Intergovernmental relations, Surface mining, Underground mining.

Dated: October 20, 2010.

**Michael K. Robinson,**

*Acting Regional Director, Appalachian Region.*

[FR Doc. 2011-1512 Filed 2-4-11; 8:45 am]

**BILLING CODE 4310-05-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R08-OAR-2007-0662; FRL-9262-5]

### Disapproval and Promulgation of Air Quality Implementation Plans; Montana; Revisions to the Administrative Rules of Montana—Air Quality, Subchapter 7, Subchapter 16 and Subchapter 17

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

**ACTION:** Proposed rule; extension of the comment period.

**SUMMARY:** EPA is extending the comment period for a proposed rule which published on January 6, 2011 (76 FR 758). In the 76 FR 758 **Federal Register**, EPA proposed to disapprove the revisions and new rules as submitted by the State of Montana on October 16, 2006 and November 1, 2006. EPA found that these revisions and new rules, pertaining to the regulation of oil and gas well facilities and applicability to Montana's air quality permitting requirements, do not meet the requirements of the Clean Air Act and EPA's Minor New Source Review (NSR) regulations. The 76 FR 758 **Federal Register** also stated that comments must be received on or before February 7, 2011. EPA is extending the comment period through February 28, 2011, due to a request from several commenters for an extension.

**DATES:** Comments must be received on or before February 28, 2011.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R08-OAR-2007-0662, by one of the following methods:

- *www.regulations.gov*. Follow the on-line instructions for submitting comments.
- *E-mail:* [leone.kevin@epa.gov](mailto:leone.kevin@epa.gov).
- *Fax:* (303) 312-6064 (please alert the individual listed in **FOR FURTHER INFORMATION CONTACT** if you are faxing comments).
- *Mail:* Callie Videtich, Director, Air Program, Environmental Protection Agency (EPA), Region 8, Mailcode 8P-AR, 1595 Wynkoop St., Denver, Colorado 80202-1129.
- *Hand Delivery:* Callie Videtich, Director, Air Program, Environmental Protection Agency (EPA), Region 8, Mail Code 8P-AR, 1595 Wynkoop St., Denver, Colorado 80202-1129. Such deliveries are only accepted Monday through Friday, 8 a.m. to 4:30 p.m., excluding Federal holidays. Special arrangements should be made for deliveries of boxed information.

- For additional information on submitting comments, see the January 6, 2011 (76 FR 758) proposed rule.

### FOR FURTHER INFORMATION CONTACT:

Kevin Leone, Air Program, Mail Code 8P-AR, Environmental Protection Agency (EPA), Region 8, 1595 Wynkoop St., Denver, Colorado 80202-1129, phone (303) 312-6227, or e-mail [leone.kevin@epa.gov](mailto:leone.kevin@epa.gov).

Dated: January 27, 2011.

**Carol Rushin,**

*Deputy Regional Administrator, Region 8.*

[FR Doc. 2011-2607 Filed 2-4-11; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R03-OAR-2010-1082; FRL-9262-6]

### Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Determination of Attainment for the Pittsburgh-Beaver Valley 8-Hour Ozone Nonattainment Area

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to make a determination that the Pittsburgh-Beaver Valley 8-hour ozone nonattainment area (the Pittsburgh Area) has attained the 1997 8-hour ozone national ambient air quality standards (NAAQS). This proposed determination is based upon complete, quality assured, and certified ambient air monitoring data that show the area has monitored attainment of the 1997 8-hour ozone NAAQS for the 2007 to 2009 monitoring period. Preliminary air quality monitoring data available for 2010 are consistent with continued attainment. If this proposed determination is made final, the requirement for the Commonwealth of Pennsylvania to submit an attainment demonstration and associated reasonably available control measures (RACM), a reasonable further progress (RFP) plan, contingency measures, and other planning requirements related to attainment of the 1997 8-hour ozone NAAQS for the Pittsburgh Area shall be suspended for as long as the nonattainment area continues to meet the 1997 8-hour ozone NAAQS. This action is being taken under the Clean Air Act (CAA).

**DATES:** Written comments must be received on or before March 9, 2011.

**ADDRESSES:** Submit your comments, identified by Docket ID Number EPA-R03-OAR-2010-1082 by one of the following methods

A. [www.regulations.gov](http://www.regulations.gov). Follow the online instructions for submitting comments.

B. E-mail: [fernandez.cristina@epa.gov](mailto:fernandez.cristina@epa.gov).  
C. Mail: EPA-R03-OAR-2010-1082, Cristina Fernandez, Associate Director, Office of Air Quality Planning, Mailcode 3AP30, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. Hand Delivery: At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

**Instructions:** Direct your comments to Docket ID No. EPA-R03-OAR-2010-1082. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov> or e-mail. The

<http://www.regulations.gov> Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through <http://www.regulations.gov>, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. 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. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

**Docket:** All documents in the electronic docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, i.e., 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 in <http://www.regulations.gov> or in hard copy 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:** Maria A. Pino, (215) 814-2181, or by e-mail at [pino.maria@epa.gov](mailto:pino.maria@epa.gov).

**SUPPLEMENTARY INFORMATION:** For detailed information regarding this proposal, EPA prepared a Technical Support Document (TSD). The TSD can be viewed at <http://www.regulations.gov>. The following outline is provided to aid in locating information in this action.

- I. What is EPA proposing?
- II. What is the background for this action?
- III. What is the effect of this action?
- IV. What is EPA's analysis of the relevant air quality data?
- V. Proposed Action
- VI. Statutory and Executive Order Reviews

### **I. What is EPA proposing?**

EPA is proposing to determine that the Pittsburgh Area has attained the 1997 8-hour ozone NAAQS. The Pittsburgh Area is comprised of Allegheny, Armstrong, Beaver, Butler, Fayette, Washington, and Westmoreland Counties in Pennsylvania. EPA's determination is based upon complete, quality assured, quality controlled, and certified ambient air quality monitoring data for the years 2007 to 2009 showing that the Pittsburgh Area has monitored attainment of the 1997 8-hour ozone NAAQS. Preliminary air quality monitoring data available for 2010 are consistent with continued attainment.

On March 27, 2008 (73 FR 16436), EPA promulgated a revised 8-hour ozone standard of 0.075 parts per million (ppm). On January 6, 2010, EPA again addressed this 2008 revised standard and proposed to set the primary 8-hour ozone standard within the range of 0.060 to 0.070 ppm, rather than at 0.075 ppm. EPA is working to complete reconsideration of the standard and thereafter will proceed with attainment/nonattainment area designations. This proposed rulemaking relates only to a determination of attainment for the 1997 8-hour ozone standard and is not affected by the ongoing process of reconsidering the

revised 2008 standard. This action addresses only the 1997 8-hour ozone standard of 0.08 ppm, and does not address any subsequently revised 8-hour ozone standard.

### **II. What is the background for this action?**

#### *A. The Pittsburgh Area*

In 1997, EPA revised the health-based NAAQS for ozone, setting it at 0.08 ppm averaged over an 8-hour time frame. EPA set the 8-hour ozone standard based on scientific evidence demonstrating that ozone causes adverse health effects at lower ozone concentrations and over longer periods of time, than was understood when the pre-existing 1-hour ozone standard was set. EPA determined that the 8-hour standard would be more protective of human health, especially children and adults who are active outdoors, and individuals with a pre-existing respiratory disease, such as asthma.

On April 30, 2004 (69 FR 23951), EPA finalized its attainment/nonattainment designations for areas across the country with respect to the 8-hour ozone standard. These actions became effective on June 15, 2004. Among those nonattainment areas is the Pittsburgh Area, which includes Allegheny, Armstrong, Beaver, Butler, Fayette, Washington, and Westmoreland Counties in Pennsylvania. See 40 CFR 81.339.

#### *B. Determination of Attainment*

Under the provisions of EPA's ozone implementation rule (see 40 CFR 51.918), if EPA issues a determination that an area is attaining the relevant standard (through a rulemaking that includes public notice and comment), it will suspend the area's obligations to submit an attainment demonstration, RACM, RFP, contingency measures and other planning requirements related to attainment for as long as the area continues to attain. The determination of attainment is not equivalent to a redesignation. The state must still meet the statutory requirements for redesignation in order to be redesignated to attainment.

#### *C. Ambient Air Quality Monitoring Data*

Complete, quality assured, certified 8-hour ozone air quality monitoring data for 2007 through 2009, as well as preliminary data available to date for 2010, show that the Pittsburgh Area has attained the 1997 8-hour ozone NAAQS.

### **III. What is the effect of this action?**

As noted, if the proposed action is finalized, under 40 CFR section 51.918 it will suspend the obligation to submit

certain planning requirements described above; however, it will not constitute a redesignation to attainment under section 107(d)(3) of the CAA. The designation status of the Pittsburgh Area will remain nonattainment for the 1997 8-hour ozone NAAQS until such time as EPA determines that the area meets the CAA requirements for redesignation to attainment, including an approved maintenance plan.

*A. Determination of Attainment*

EPA is proposing to determine that the Pittsburgh Area is attaining the 1997 8-hour ozone NAAQS. In accordance with 40 CFR 51.918, if EPA finalizes this determination, the obligation under the CAA for the Commonwealth of Pennsylvania to submit an attainment demonstration and RACM, RFP plan, contingency measures, and any other planning requirements related to attainment of the 1997 8-hour ozone NAAQS for the Pittsburgh Area would be suspended for so long as the area continues to attain the 1997 8-hour ozone NAAQS. Although these requirements are suspended, EPA is not precluded from acting upon these elements, if Pennsylvania submits them for EPA review and approval.

If finalized, the proposed determination will:

(1) Suspend the requirements to submit an attainment demonstration, RACM, RFP plan, contingency measures, and any other planning requirements related to attainment of the 1997 8-hour ozone NAAQS;

(2) Continue until such time, if any, that EPA (i) redesignates the area to attainment at which time those requirements no longer apply, or (ii) subsequently determines that the area has violated the 1997 8-hour ozone NAAQS;

(3) Be separate from, and not influence or otherwise affect, any future designation determination or requirements for the area based on any new or revised ozone NAAQS; and

(4) Remain in effect regardless of whether EPA designates this area as a

nonattainment area for purposes of any new or revised ozone NAAQS.

If this rulemaking is finalized and EPA subsequently determines, after notice-and-comment rulemaking, that the Pittsburgh Area has violated the 1997 8-hour ozone NAAQS, the basis for the suspension of the specific requirements, set forth at 40 CFR 51.918, would no longer exist, and the Pittsburgh Area would thereafter have to address applicable requirements.

*B. Subpart 1 Designation*

Under the implementation rule for the 1997 8-hour ozone standard, EPA designated certain areas under title I, part D, subpart 1 of the CAA (subpart 1) if they had a 1-hour design value below 0.121 ppm. In June 2004, EPA designated the Pittsburgh Area nonattainment under subpart 1 for the 1997 8-hour ozone standard. In June 2007, the United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit Court) vacated the portion of the 1997 ozone implementation rule that allowed areas to be designated under subpart 1. On January 16, 2009 (74 FR 2936), EPA published a proposed rule to address, among other issues, the D.C. Circuit Court vacatur of the classification system that EPA used to designate a subset of initial 1997 8-hour ozone nonattainment areas under subpart 1. In that rulemaking, EPA proposed that all areas designated nonattainment for the 1997 8-hour ozone NAAQS under subpart 1 would be classified as subpart 2 areas (hereafter referred to as the "Subpart 1/Subpart 2 1997 8-Hour Ozone Rulemaking"). The Pittsburgh Area is among those areas that would be classified under subpart 2 if EPA's proposal is finalized. EPA has not yet completed its final rulemaking action for the Subpart 1/Subpart 2 1997 8-Hour Ozone Rulemaking. When the Subpart 1/Subpart 2 1997 8-Hour Ozone Rulemaking is finalized, and if the Pittsburgh Area continues in attainment for the 1997 8-hour ozone NAAQS, EPA will address in a future rulemaking the

consequences of a determination of attainment for any requirements to which the Pittsburgh Area becomes subject as a result of its reclassification. If, after the Pittsburgh Area is classified under subpart 2, EPA determines in a future rulemaking that the Pittsburgh Area continues to be in attainment, then the obligation to submit the applicable attainment-related requirements for its new classification would be suspended in accordance with 40 CFR 51.918.

**IV. What is EPA's analysis of the relevant air quality data?**

Under EPA regulations at 40 CFR part 50, the 1997 8-hour ozone standard is attained at a site when the 3-year average of the annual fourth-highest daily maximum 8-hour average ozone concentrations at an ozone monitor is less than or equal to 0.08 ppm. This 3-year average is referred to as the design value. When the design value is less than or equal to 0.084 ppm (based on the rounding convention in 40 CFR part 50, appendix I) at each monitoring site within the area, then the area is meeting the NAAQS. The data completeness requirement is met when the average percent of days with valid ambient monitoring data is greater than 90%, and no single year has less than 75% data completeness as determined in Appendix I of 40 CFR Part 50.

Consistent with the requirements contained in 40 CFR part 50, EPA has reviewed the ozone ambient air monitoring data for the monitoring period from 2007 through 2009 for the Pittsburgh Area, as recorded in the EPA Air Quality System (AQS) database. On the basis of that review, EPA has concluded that this area attained the 1997 8-hour ozone NAAQS based on data for the 2007-2009 ozone seasons. Table 1 shows the ozone design values for the Pittsburgh Area monitors based on 2007-2009 ambient air quality monitoring data. Preliminary data available for 2010, summarized in Table 2, are also consistent with continued attainment.

TABLE 1—2007–2009 PITTSBURGH AREA 8-HOUR OZONE DESIGN VALUES

| County           | Monitor ID | 2007–2009 Average % data completeness | 2007–2009 Design value (ppm) |
|------------------|------------|---------------------------------------|------------------------------|
| Allegheny .....  | 420030008  | 99                                    | 0.077                        |
|                  | 420030010  | 99                                    | 0.074                        |
|                  | 420030067  | 98                                    | 0.073                        |
|                  | 420031005  | 97                                    | 0.082                        |
| Armstrong .....  | 420050001  | 100                                   | 0.077                        |
|                  | 420070002  | 97                                    | 0.073                        |
| Beaver .....     | 420070005  | 97                                    | 0.071                        |
|                  | 420070014  | 100                                   | 0.073                        |
|                  | 421250005  | 99                                    | 0.072                        |
| Washington ..... | 421250005  | 99                                    | 0.072                        |
|                  | 421250200  | 100                                   | 0.068                        |

TABLE 1—2007–2009 PITTSBURGH AREA 8-HOUR OZONE DESIGN VALUES—Continued

| County             | Monitor ID | 2007–2009 Average % data completeness | 2007–2009 Design value (ppm) |
|--------------------|------------|---------------------------------------|------------------------------|
| Westmoreland ..... | 421255001  | 95                                    | 0.072                        |
|                    | 421290006  | 100                                   | 0.071                        |
|                    | 421290008  | 99                                    | 0.072                        |

TABLE 2—PRELIMINARY 2008–2010 PITTSBURGH AREA 8-HOUR OZONE DESIGN VALUES

| County             | Monitor ID | 2008–2010 Average % data completeness | Preliminary 2008–2010 Design value (ppm) |
|--------------------|------------|---------------------------------------|--|
| Allegheny .....    | 420030008  | 98                                    | 0.076                                    |
|                    | 420030010  | 96                                    | 0.072                                    |
|                    | 420030067  | 99                                    | 0.074                                    |
|                    | 420031005  | 99                                    | 0.082                                    |
| Armstrong .....    | 420050001  | 100                                   | 0/076                                    |
|                    | 420070002  | 97                                    | 0.071                                    |
| Beaver .....       | 420070005  | 96                                    | 0.073                                    |
|                    | 420070014  | 95                                    | 0.072                                    |
|                    | 421250005  | 99                                    | 0.070                                    |
| Washington .....   | 421250200  | 99                                    | 0.068                                    |
|                    | 421255001  | 94                                    | 0.071                                    |
|                    | 421290006  | 99                                    | 0.069                                    |
| Westmoreland ..... | 421290008  | 98                                    | 0.072                                    |

EPA's review of the data indicates that the Pittsburgh Area has met the 1997 8-hour ozone NAAQS. Additional information on air quality data for the Pittsburgh Area can be found in the TSD.

#### V. Proposed Action

EPA is proposing to determine that the Pittsburgh Area has attained the 1997 8-hour ozone NAAQS based on 2007–2009 complete, quality-assured, and certified ambient air quality monitoring data. Preliminary data available to date for 2010 are consistent with continued attainment. As provided in 40 CFR 51.918, if EPA finalizes this determination, it would suspend the requirements for the Commonwealth of Pennsylvania to submit, for the Pittsburgh Area, an attainment demonstration and associated RACM, RFP plan, contingency measures, and any other planning requirements related to attainment of the 1997 8-hour ozone NAAQS as long as the area continues to attain the 1997 8-hour ozone NAAQS. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

#### VI. Statutory and Executive Order Reviews

This action proposes to make a determination of attainment based on air quality, and would, if finalized, result in the suspension of certain federal requirements, and would not impose additional requirements beyond

those imposed by state law. For that reason, this proposed action:

- Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive 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 proposed determination that the Pittsburgh Area has attained the 1997 8-hour ozone NAAQS does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

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

Environmental protection, Air pollution control, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements.

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

Dated: January 24, 2011.

**W.C. Early,**

*Acting Regional Administrator, Region III.*

[FR Doc. 2011–2605 Filed 2–4–11; 8:45 am]

**BILLING CODE 6560–50–P**